

**Public Document Pack
SOUTHEND-ON-SEA CITY COUNCIL**

Licensing Sub-Committee C

Date: Monday, 5th December, 2022

Time: 10.00 am

Place: Committee Room 1 - Civic Suite

Contact: Tim Row - Principal Committee Officer

Email: committeesection@southend.gov.uk

A G E N D A

- 1 Apologies for Absence**
- 2 Declarations of Interest**
- 3 Minutes of the Meeting held on Thursday, 25th March, 2021**
- 4 Entice, 3 Warrior house, 42-82 Southchurch Road, Southend-on-Sea, SS1 2LZ - Application for the Renewal of a Sexual Entertainment Venue Licence (Pages 3 - 184)**

TO: The Chair & Members of Licensing Sub Committee C:

Councillor A Thompson (Chair),

Councillors M Borton (Vice-Chair), S Buckley, A Dear, N Folkard, J Lamb, A Line and M Terry

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SOUTHEND-ON-SEA BOROUGH COUNCIL

Meeting of Licensing Sub-Committee C

Date: Thursday, 25th March, 2021
Place: Virtual Meeting via MS Teams

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Present: Councillor S Habermel (Vice-Chair in the Chair)
Councillor M Borton, A Chalk, A Dear, D McGlone, I Shead and
A Thompson

In Attendance: E Anakwue, T Row, A Penn and T Bahannack

Start/End Time: 10.00 am - 11.40 am

941 Apologies for Absence

Apologies for absence were received from Councillor McDonald (no substitute).

942 Declarations of Interest

No interests were declared at the meeting.

943 Minutes of the Meeting held on Thursday, 23rd July, 2020

Resolved:-

That the Minutes of the Meeting held on Thursday, 23rd July 2020 be received, confirmed as a correct record and signed.

944 Application for the Renewal of a Sexual Entertainment Venue Licence - Pink Papers, The Stables, Lucy Road, Southend-on-Sea, Essex, SS1 2AU

The Sub-Committee received a report of the Executive Director (Neighbourhoods and the Environment) concerning an application by Andros Steven Stavrou for the renewal of a Sexual Entertainment Venue Licence in respect of Pink Papers, The Stables, Lucy Road, Southend-on-Sea, Essex, SS1 2AU.

The application was presented by Mr G Gouriet QC (Barrister). The Applicants Solicitor, Mr A Murrell was also in attendance and gave evidence.

The Sub-Committee noted that letters of objection had been received from two residents, one of whom did not attend the hearing. The objectors' principal concerns are the location of the premises, its effect the surrounding environment, issues of anti-social behaviour given that the premises were located in an area covered by a Public Spaces Protection Order and the Council's Policy which aims to reduce the number of SEVs within the Borough to zero.

The Sub-Committee considered all the evidence and submissions that had been made at the meeting and the written reports and documentation that had been presented prior to the hearing. The Sub-Committee also had regard to Schedule

3 of the Local Government (Miscellaneous Provisions) Act 1982 (adopted pursuant to the Police and Crime Act 2009) and the Council's Policy for controlling sex establishments.

Resolved:

That the application be the application, subject to the existing operating conditions to the current licence set out in Appendix 1 to the report of the Interim Executive Director (Neighbourhoods and the Environment), together with the following additional conditions:

- "A revised plan of the premises, which shall include the locations of all of the CCTV cameras detailed in the application (both internal and external), shall be submitted to the Licensing Authority within one month of this decision."
- "The Dress Code for Performers as detailed in the Dancer Handbook 2020 shall be amended to clearly specify the dress code and shall include the wording set out in Condition No. 64 namely that Dancers shall be fully clothed (i.e. no nudity) when not performing."
- "The Customers' Code of Conduct for Patrons shall be amended by the addition of, but not limited to, the following:

Whilst outside or leaving the premises, all customers, must not loiter unnecessarily and vacate the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours both residential and business and to make the minimum impact upon the neighbourhood in relation to potential nuisance, anti-social behaviour, crime and disorder."

Chair: _____

Southend-on-Sea City Council

Report of Executive Director
(Neighbourhoods and the Environment)
To

Licensing Committee C

On
05th December 2022

Agenda
Item No.

4

Entice, 3 Warrior house, 42-82 Southchurch Road,
Southend-on-Sea, SS1 2LZ

**Application for the Renewal of a Sexual Entertainment Venue Licence
Local Government (Miscellaneous Provisions) Act 1982
as amended by the Policing and Crime Act 2009**

A Part I Public Agenda Item

1. Purpose of Report

- 1.1 To consider an application by Wizard Sleeves Bars (Essex) Limited for a renewal of a Sexual Entertainment Venue Licence in respect of Entice, 3 Warrior House, 42-82 Southchurch Road, Southend-on-Sea, SS1 2LZ.

2. Recommendations

- 2.1 **That the Committee determines the application.**
- 2.2 **Should the Committee decide to approve the application, then all relevant standard conditions attached in Appendix 1 should be applied to the license.**

3. Background

- 3.1 On 15 December 2011 Southend Borough Council made a resolution to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions Act) 1982 (LGMP) introduced by the Policing and Crime Act 2009 (PACA), that relate to the licensing of Sex Establishments, comprising of Sex Shops and Sex Cinemas.
- 3.2 The PACA introduced a third category of Sex Establishment licence (in addition to Sex Shops and Sex Cinema licences) called a Sexual Entertainment Venue (SEV). This licence covers striptease, lap/ table dancing and similar entertainment. Previously this type of entertainment was classified generally as performance of dance on Premises Licences under the Licensing Act 2003 and was not regarded as a sex establishment.
- 3.3 At present there are currently three premises that hold current Sex Establishment Licences and these are as follows:-

- Pink Papers, Lucy Road , SS1 2AU (SEV licence)
- Entice, 3 Warrior House, 42-82 Southchurch Road, SS1 2LZ (SEV licence)
- Harmony, 312 London Road, Southend (Sex Shop)

- 3.4 The application relates to a premises known as Entice situated at 3 Warrior House, 42-82 Southchurch Road, Southend-on-Sea, SS1 2LZ.
- 3.5 The application was given to the Licensing Authority on the 3rd of August 2022 and was advertised in accordance with legislative requirements (see Application procedures in section 4 below).
- 3.6 One objection has been received.
- 3.7 The application remains opposed and is referred to the Licensing Committee for determination.

4. Application Procedures

- 4.1 Applicants for a SEV licence are required to send a copy of the application to the Police. It is also a requirement that a public notice is displayed at the premises giving brief details of the application and giving notice that objections can be made within a 28 day period.
- 4.2 Additionally the applicant must publish the same information in a newspaper that circulates in the locality.
- 4.3 It is Council practice to facilitate negotiations between parties where objections have been made. However no request was made for such negotiation by any party.
- 4.4 A copy of the objection have been provided to the applicant and the Licensing Committee. The Act requires that The Licensing Authority does not disclose details of objectors without their permission and therefore details have been redacted from the committee papers.
- 4.5 All parties have been invited to attend the hearing.

5 Proposals

- 5.1 Details of the application can be summarised as follows:-
- a) to provide namely full or partial nudity, striptease, pole dancing and table dancing.
 - b) To provide entertainment listed in a) above daily between 21:00 to 04:30.
- 5.2 Further information is provided in the application documentation which has been copied to the Licensing Committee.

6. Financial Implications

- 6.1 A fee was paid on submission of the application. An additional fee has also been paid in order for the application to proceed to a hearing by the Licensing Committee. These fees cover the cost of administration and processing of the application

7. Premises Licence

- 7.1 A Premises Licence under the Licensing Act 2003 is currently held at the premises, and this permits the following activities:
- a) The sale by retail of alcohol for consumption on the premises only.
 - b) The provision of late night refreshment.
 - c) The provision of regulated entertainment comprising plays, films, indoor sporting events, live music, recorded music, performance of dance and anything of a similar description.
- 7.2 A copy of the Premises Licence that includes all licence conditions has been provided to the Licensing Committee.

8. Legal Implications

- 8.1 Under paragraph 12(1) of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 there are five Mandatory Grounds for refusal of a Sex Establishments licence. These are as follows:-
- a) to a person under the age of 18;
 - b) to a person who is for the time being disqualified from holding a sex establishment licence;
 - c) Is not a body corporate, and is not resident or has not been resident in an EEA state for six months immediately preceding the date of application;
 - d) The body corporate which is not incorporated in an EEA state;
 - e) Has in the period of 12 months preceding the date of application been refused the grant or renewal of a licence for the premises in respect of which the application is made, unless the application has been reversed on appeal.
- 8.2 Discretionary grounds to refuse an application are:
- a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason.
 - b) if the licence was to be granted, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;

- c) the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider appropriate for that locality;
- d) the grant would be inappropriate, having regard –
 - i. to the character of the relevant locality;
 - ii. to the use to which any premises in the vicinity are put;
 - iii. to the layout, character or condition of the premises, in respect of which the application is made.

9. Matters for Consideration

- a) Approve the application as made subject to standard and offered conditions, or
- b) Modify the application conditions put forward or add additional conditions as the Licensing Committee deem appropriate
- c) Reject the whole or part of the application.

1. Its Sex Establishments Policy, and
2. The guidance issued by the Home Office

10. Background Papers

11. Appendices

SEX ESTABLISHMENT OPERATING CONDITIONS

The applicant has confirmed that the below conditions are carried forward to the renewal application and if granted the committee may attach them to the new licence. Additional conditions may also be added at the discretion of the Licensing Authority.

- 1) The Licensee or a responsible person nominated by them in writing, not being under a person under 21 years of age, and whose nomination has been approved in writing by the Licensing Authority, shall be in charge of and present in the premises at all times when the public are on the premises.
- 2) The person in charge shall not be engaged in any duties which will prevent them from exercising general supervision.
- 3) The licence (including a copy of the conditions attached to it) shall be exhibited at the premises in a place where it can be easily seen and each page can be read by people visiting the premises.
- 4) There shall be no noise coming from the premises which would cause people in the neighbourhood to be unreasonably disturbed.
- 5) The Licensee shall take all reasonable steps to ensure that people entering or leaving the premises do not conduct themselves in such a manner so as to cause disturbance or nuisance to residents or passers-by.
- 6) The business shall be carried on only in the trade name or title, and at the address, specified in the licence.
- 7) The business shall be carried on only as the type of sex entertainment venue described in the application.
- 8) Where the licensee is a corporate or unincorporated body, any change of director/partner or other persons to be responsible for the management of the premises shall be notified in writing to the Licensing Authority within 14 days of such change and further information as required by the Licensing Authority shall be given in writing within 14 days of such a request being made.
- 9) The Licensee shall retain control over all parts of the premises and shall not let, share, or part with possession of any part of the premises. No change of use of any part of the premises shall be made without prior approval of the Licensing Authority.
- 10) In the conduct of the business the licensee shall not employ any person:-
 - (a) who has been disqualified from holding a licence for a sex establishment
 - (b) who has been refused the grant or renewal of a licence for a sex establishment
 - (c) who has been the holder of a licence for a sex establishment when that licence has been revoked.

- 11) The Licensee shall ensure that no employee or other person seeks to obtain custom for the premises by means of personal solicitation within the Borough.
- 12) Sex articles as defined by the Local Government (Miscellaneous Provisions) Act 1982 shall not be displayed, sold, exchanged, loaned or demonstrated other than within a sex shop.
- 13) The interior of the premises shall not at any time be visible from the outside.
- 14) The number, size and position of the doors or openings provided for the use of the public shall be approved by the Licensing Authority and those leading to parts of the premises to which the public does not have access shall be marked 'private'.
- 15) No access shall be permitted through the premises to any unlicensed premises adjoining or adjacent save in an emergency.
- 16) Lighting in all parts of the premises both internal and external shall be as approved by the Licensing Authority and be in operation continuously during the whole of the time the premises are open to the public.
- 17) There shall be no distribution of leaflets or other advertising material relating to the premises. (this provision includes on-vehicle advertising and static adverts such as A-boards, posters and bill boards).
- 18) No advertisement, display, sign, imagery, model or other such things shall be exhibited either at the premises or any other premises giving access to the premises so as to be visible from outside the premises except for the following:
 - (a) any notice of a size and in a form approved in writing by the Licensing Authority
 - (b) a compulsory warning notice, of a minimum size A4, shall be displayed at the each entrance to the premises.
 - i. The warning notice for sex shops and sex cinemas shall state: - "WARNING Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age."
 - ii. The notice for sex entertainment venues shall state: - "WARNING Persons passing beyond this notice will find nudity shows which they may consider indecent. No admittance to persons under 18 years of age."
 - iii. The word "WARNING" must appear as a heading.
 - iv. The warning notice shall contain only the prescribed words, and no others.
 - v. No pictures or other matter shall appear on the notice.
 - vi. The notice must be placed so it is easy to read and no-one could reasonably gain access to the premises without being aware of it.
- 19) No external loudspeakers may be installed or used.
- 20) No person who is apparently under the age of 18 years, or who is known to any person connected with the licensee's business and present at the premises to be under that age, shall be admitted to or allowed to remain at the premises.

- 21) The Licensee shall operate a challenge 25 policy where by any person who appears to be under the age 25 years shall be required to provide ID showing that they are at least 18 years of age. The only acceptable forms of ID shall be a UK photographic drivers licence, a passport or a 'PASS' approved ID card. A refusals log shall be maintained whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Licensing Authority.
- 22) The Licensee shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction. Written training records shall be maintained at the premises and be available for inspection upon request by the Police or an authorised officer of the Licensing Authority.
- 23) The Licensee shall ensure that they submit a variation application before carrying out any change to the structure or management of the premises.
- 24) Performers may not stand in any lobby, reception or foyer areas or outside area of the premises for the purposes of greeting customers or encouraging customers to enter the venue.
- 25) The Licensee shall nominate a Duty Manager for the premises on each occasion they are open to the public and being used for the purposes of providing relevant entertainment.
- 26) The Licensee shall ensure the rota of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Licensing Authority officers carrying out an inspection of the premises, or otherwise by persons using the venue. The full name of the appropriate duty manager shall be included on the rota.
- 27) The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.
- 28) The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
- 29) The prices for entrance and any compulsory purchases within the venue, shall be clearly displayed at the entry point of the premises.
- 30) No charge shall be applied unless the customer has been made aware of the tariff of charge by the performer in advance of the performance.
- 31) The use of any cruising cars or any other wheeled carriage [whether for the purposes of hire or reward or not] by the premises to solicit customers and/or transport to or from the premises is prohibited.
- 32) An appropriate number of door supervisors registered with the Security Industry Authority shall be on duty to ensure that:

- All public areas of the premises are continually monitored to ensure the Dancers and Customers Codes of Conduct and any licence conditions are being complied with.
- Persons breaching the Customers Code of Conduct or otherwise behaving in a disorderly manner can be safely ejected from the premises.
- Customer numbers are monitored to ensure additional door supervisors will be available on a risk assessed basis.
- At all times the premises is open to the public there is a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place and one member of security staff at the public entrance/exit to the premises.

33) Private booths shall not be fully enclosed. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.

34) All private booths shall be fitted with a panic button or security alarm tested regularly with test results recorded in writing.

35) The Licensee shall undertake appropriate checks to ensure each dancer is eligible to work in the United Kingdom and shall not allow dancers ineligible to work in the UK to work at the premises. Appropriate records of the checks shall be kept at the premises and made available to Police and/or immigration officers upon request.

36) The Licensee shall maintain written records of all dancers working at the premises. The records shall show the dancer's full name, home address, date of birth and a certified photocopy of their passport (or a UK driving Licence) and the date the dancer was provided with the Dancers Code of Conduct and Disciplinary Procedure. Such records shall be produced for inspection by Police and authorised Licensing Authority Officers on request. Any instances of the dancer breaching the Dancers Code of Conduct shall be recorded on the dancer's record, showing the date and time of the incident and details of the breach that occurred. Such records shall be kept for a minimum of 6 months following cessation of their employment or work at the premises.

37) Dancers under the age of eighteen shall not be permitted to work at the premises.

38) Dancers shall not be permitted to perform if they are clearly under the influence of alcohol or drugs.

39) The Licensee shall ensure that an incident log is maintained at the premises. The incident log shall, as a minimum, give details of:

- Any ejections from the premises
- Any refused admissions
- Any refused sales
- Any inappropriate behaviour by guests
- Any failure in the CCTV system
- Any incidents of crime or disorder
- Any complaints made by the public, guests dancers or other staff

- 40) The incident log shall be completed as soon as reasonably practicable after any incident has occurred and in any case prior to the end of business on the day of the incident. The Licensee shall ensure the incident log is checked periodically and at least at monthly intervals to ensure that staff are completing the incident log.
- 41) The incident log shall be kept in a place where it can easily be accessed by staff working at the premises and all staff shall be aware of its location and the need to complete it in the case of any of the circumstances described above. The incident log shall be made available for inspection to Police or authorised Licensing Authority Officers on request.
- 42) A 'Customers Code of Conduct' shall be on displayed at the entrance to the premises and within the performance areas, and at each customer table. The customer code of conduct shall include the following:-
- I. Customers shall be seated during a performance.
 - II. There shall be no physical contact with the performers at any time during the performance.
 - III. Unacceptable and inappropriate behaviour will result in a customer being removed the premises.
 - IV. Customers may only proposition the performers for a dance and not for any other sexual activity.
 - V. No non-prescription drugs or nitrous oxide may be brought into, or consumed on the premises.
 - VI. No weapons or items which may be used as weapons may be brought into the premises.
 - VII. It is a condition of entry that customers may be searched before being permitted to enter the premises.
 - VIII. No photography, either or still of moving imagery, is permitted by the use of the camera, mobile phone or other electronic device.
- 43) The following policies shall be drawn up and agreed with the Police in writing prior to the licence being deemed as 'in force':
- Misuse of Drugs
 - Searching
 - Smoking
 - The safety of dancers when leaving the premises following any period of work
- 44) The smoking policy shall include a provision that the smoking area for use by staff shall be kept secure and separate to any public smoking area and that no more than two staff shall be permitted to smoke outside the premises at any one time.
- 45) A female security officer shall be on duty at all times when body searches are carried out on female customers.
- 46) The Licensee shall sign-up to and participate in any town link radio system operated for the purposes of dealing with crime, disorder and nuisance in the night time economy within the vicinity of the premises.
- 47) The Licensee shall ensure there is a 'Dancers Code of Conduct' in force at the premises which shall be displayed at the premises. A copy of the 'Dancers Code of Conduct' and the conditions of the licence shall made available to the dancers in their own language on request.

- 48) Dancers may not intentionally touch a customer during a performance.
- 49) Dancers may not permit a customer to touch them during a performance.
- 50) Dancers may not straddle the customer.
- 51) If a customer attempts to touch or speak to a dancer inappropriately, the dancer shall stop the performance and advise the customer of the rules of the Code of Conduct. If the customer persists in an inappropriate behaviour, the dancer shall stop the performance and inform premises management immediately.
- 52) There shall be no physical contact between dancers while they are performing.
- 53) Dancers shall not solicit for gratuities or payment for sexual favours.
- 54) Dancers shall not engage in any act of prostitution, i.e. the receiving of gratuities or payment for sexual favours.
- 55) Dancers may never give out personal information, including telephone numbers, email addresses or other contact details to audience members.
- 56) Dancers may not perform any act which simulates masturbations, oral sex or sexual intercourse, including the insertion of any object, including their own finger, into the mouth, anus or vagina.
- 57) Dancers may not touch their own breasts, anus or genitals with their fingers, lips or tongue.
- 58) Dancers may not be in the company of a customer unless it is in an area of the premises that is open to the public.
- 59) Dancers shall not perform if they are, or appear to be, under the influence of alcohol or drugs.
- 60) If a customer engages in acts of masturbation or other sexual behaviour, the dancer shall cease the performance immediately and inform the premises management.
- 61) Dancers shall be provided with secure and private changing facilities. This shall include the provision of a toilet and a shower, which are for the sole use of the dancers. They shall use the dressing room facilities provided to change for their performance.
- 62) Dancers shall only use the smoking area provided specifically for their use.
- 63) Dancers shall only use the sanitary facilities specifically provided for their use.
- 64) Dancers shall be fully clothed (i.e. no nudity) when not performing.
- 65) Dancers shall not leave the premises or otherwise be visible outside the premises, including for smoking breaks, unless dressed in suitable attire, e.g. outer-wear consisting of coat or top and skirt or trousers so lingerie or other performance costume is not visible. No advertising shall be displayed on dancers clothing when worn outside the premises during breaks.

- 66) Dancers shall notify management in the event of his or her spouse, civil partner, boyfriend or girlfriend being on the premises.
- 67) The Licensee shall ensure that a zero tolerance policy in respect of illegal drugs is in place. In pursuance of that policy dancers shall be subject to search and a procedure within the policy shall whereby dancers sign to confirm consent to appropriate searches being carried out.
- 68) The Licensee shall signpost performers and staff to suitable support services. This shall include, but not be limited to, details of support services for victims of sexual harassment and/or sexual violence. This shall include the provision of leaflets sited within the changing area and handed to each performer prior to commencement of their contract/employment.
- 69) All dancers shall comply with the dancers Code of Conduct. Any failure to adhere to the Code of Conduct shall render the dancer subject to the house Disciplinary Rules, a copy of which shall be provided to each dancer.
- 70) No films may be shown at the premises unless they have been passed by the British Board of Film Classification. No films classified as R18 shall be shown on the premises.
- 71) The Closed Circuit Television (CCTV) system shall cover all public areas of the premises including all areas where performances of sexual entertainment are conducted, and be maintained in good working order to:
- a) Operate on 'real-time' at a minimum rate of 20 frames-per-second, with constant, correct time/date generation.
 - b) Have a recording capability capable of providing individual pictures.
 - c) Provide clean, clear and unobstructed camera views of evidential quality in all lighting conditions.
 - d) Provide correctly timed and date stamped recordings - which must be stored in date order, numbered sequentially, kept for a period of at least 31 days and handed to the Police on request.
 - e) Export footage to a removable storage medium with a time and date integral to the image – where possible, to also include any software needed to replay the footage.
 - f) Ensure exported footage at the same, or similar quality to that recorded on the system recording.
 - g) Incorporate at least one camera on every entrance and exit to the premises which gives images clearly showing full height and facial recognition.
 - h) Incorporate at least one camera on all areas where the sale/supply of alcohol occurs- individuals must be recognisable.
 - i) Incorporate at least one camera on any potential queue area external to the premises, and car parking area within the boundary of the premises - individuals must be detectable.
 - j) Incorporate a dedicated CCTV camera for each private booth – individuals must be clearly identifiable.
 - k) Ensure that all other cameras at the premises allow for individuals to be recognisable.
- 72) During all periods of licensable activity authorised by this licence, a nominated and trained 'CCTV Operator' shall be on duty, who is competent in the operation of the CCTV equipment in order to:
- a) Inspect the CCTV system on a daily basis, and ensure that all cameras are in full working order.

- b) Record each inspection on a 'CCTV maintenance' log sheet, and endorse with their signature.
 - c) Facilitate the downloading CCTV footage. Images shall be provided to the police upon request.
- 73) During all periods of non-licensable activity, a 'CCTV Operator' must be contactable by the police on a designated emergency-only telephone number. This number must be registered with the local police licensing office.
- 74) A suitable drugs safe/cabinet shall be fitted and any seized items shall be deposited in it. The safe shall be installed at the main entrance and only the Police shall have the access keys. Any seized items shall be placed in a clear bag with a label stating the circumstances of why it is in the safe. A corresponding book to record details of such seizures or found drugs/weapons shall be maintained. The whole of this procedure shall be covered by CCTV from seizure to deposit in safe. (With the exception of the toilets).
- 75) The Licensee shall ensure that a 'grab bag' containing suitable clothing for the use of dancers in the event of an emergency evacuation, is located at the exit to the premises. (Such clothing is defined in condition 65 above).

Entice SEV renewal application hearing documents

Hearing date: 5th Dec 2022

- 1- Hearing report
- 2 – Application form
- 3 - Objections
- 4 – SEV Licence
- 5 – Premises Licence
- 6 – Plan 1 (premises)
- 7 – Plan 2 (location)
- 7a – surrounding businesses
- 8 – Email addresses
- 9 – SEV Policy
- 10 – Home office guidance – SEV
- 11 – LG (Misc Provisions) Act 1982 notice of application

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By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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of the Local Government Act 1972.

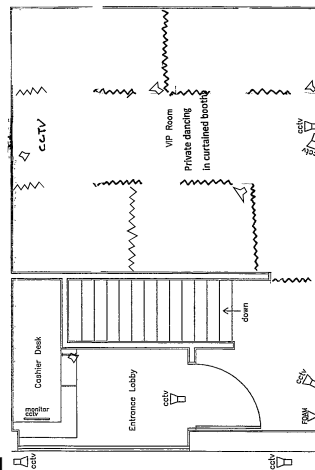
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of the Local Government Act 1972.

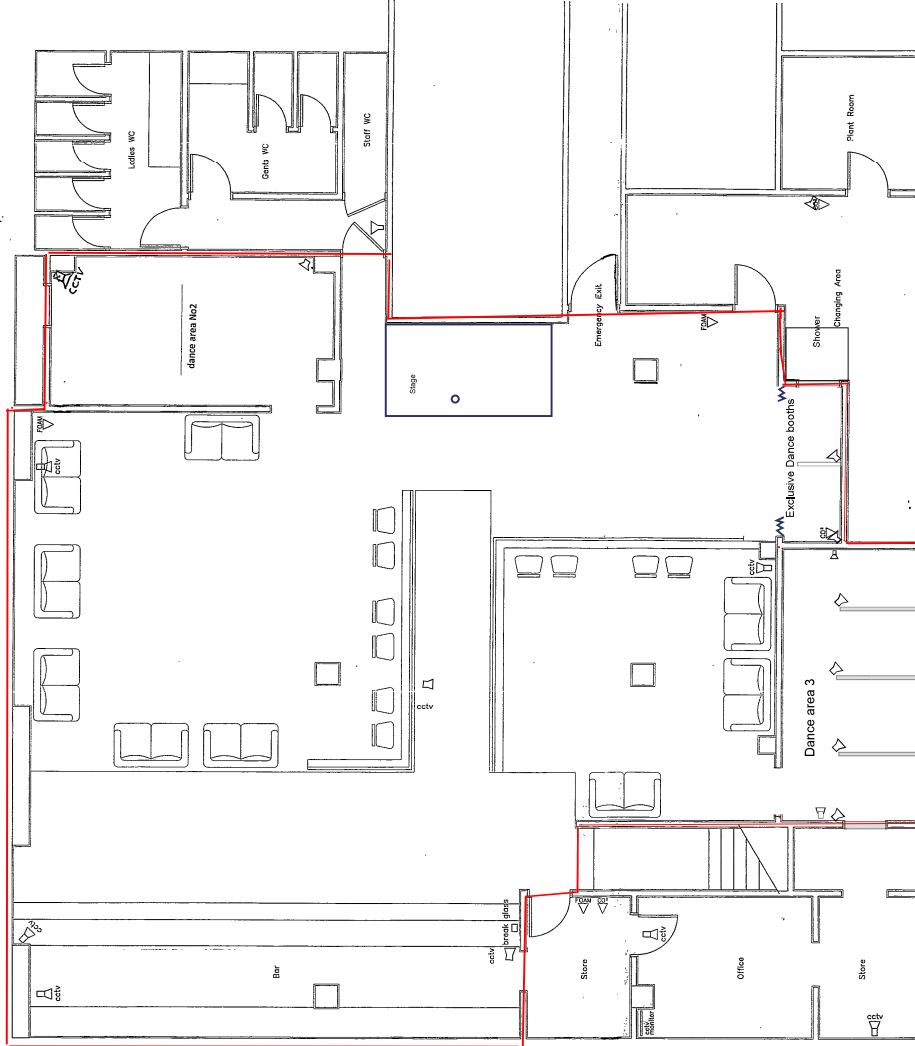
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Ground Floor Plan

~~~~~ - Curtain



Basement Floor Plan

- E1, 23/09/2019 relocated shower and additional CCTV cameras
- D, 03/05/16 remove music control booth and add CCTV cameras
- C, February 2016 - new dance area 3
- B, 01/05/2015 - relocate stage

**A 22.3.15 CCTV, stage, curtains**  
Rev No. 01/15 Amendment

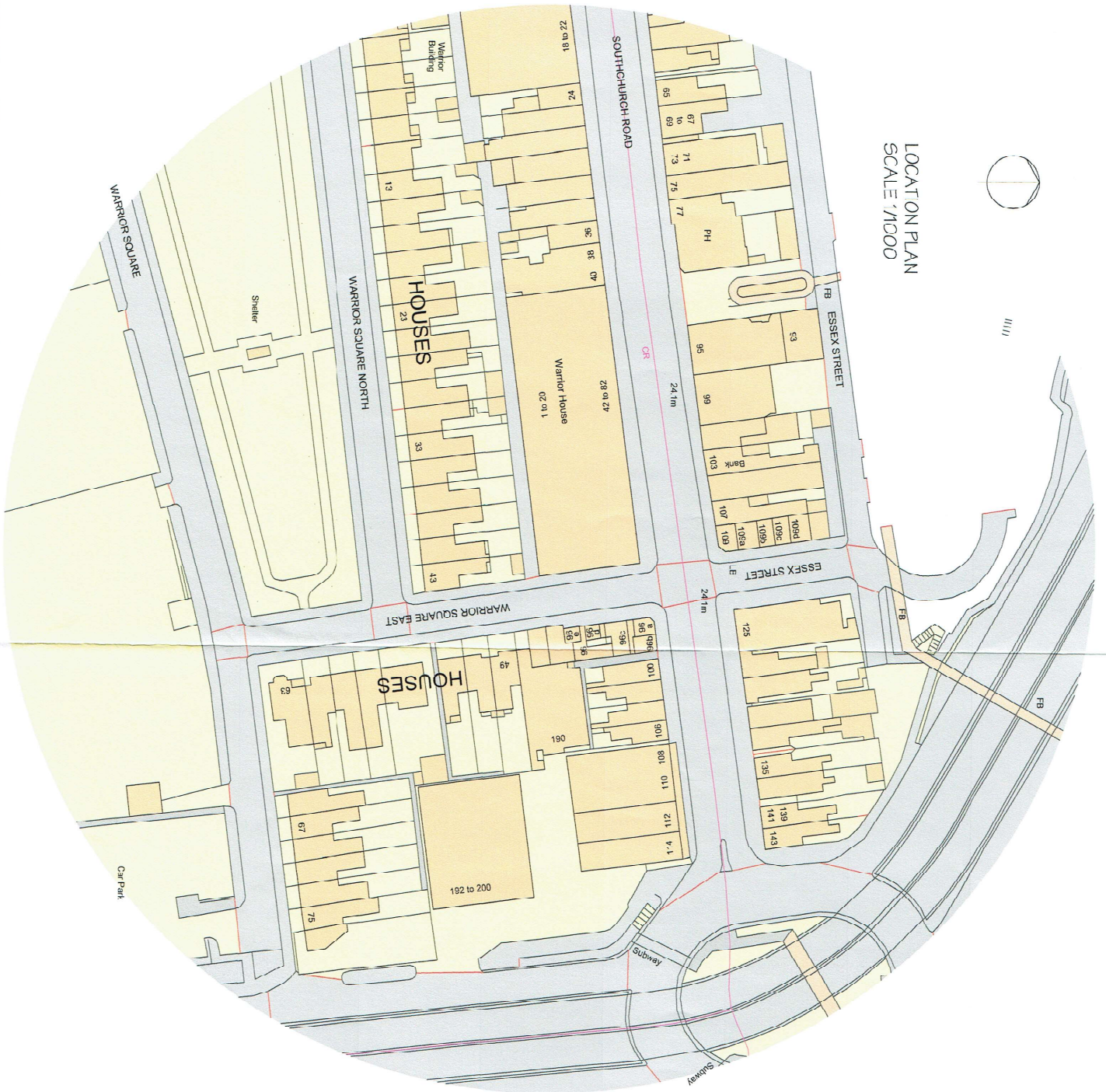
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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Project:<br>The White<br>Southchurch Road<br>Southend-on-Sea<br>Essex<br>Items: Floor Plan                                                                                                                   |                  |
| Scale: 1:50 at A0                                                                                                                                                                                            | Date: 18/09/2019 |
| Drawing No: 141606-01                                                                                                                                                                                        |                  |
| NOTE:<br>This drawing is to be checked on site before any construction<br>is carried out. Any discrepancies between the drawing and the actual<br>situation must be reported to the design team immediately. |                  |

**SEVICENCE PLAN**  
Revised plan may take place anywhere within the red line. Loose furniture is shown for diagrammatic purposes  
only. Fire fighting equipment is shown at the date hereof and may be moved by agreement with the fire authority.  
Dated 18.09.2019

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LOCATION PLAN  
SCALE 1/1000



ALL MATERIALS, WORKMANSHIP TO MEET THE BRITISH STANDARDS & CODES OF PRACTICE  
THIS DRAWING IS COPYRIGHTED AND IS ISSUED ON THE CONDITION THAT IT IS NOT REPRODUCED, COPIED, RETAINED, CHANGED OR ENCLOSED TO ANY OTHER PARTY WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER

NOTES

| REV | DATE     | DESCRIPTION    |
|-----|----------|----------------|
| 1   | NOV 2004 | HOUSE SCHEDULE |
| 2   | NOV 2004 | SCALE C-MANDED |

3 WARRIOR HOUSE  
42-62 SOUTHCHURCH ROAD - SOUTHEND  
PLAN REFERRED TO

JOB NUMBER: DRAWING NUMBER/REVISION DATE: 30/09/2004  
91196 01 B SCALE: 1/1000

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## **SOUTHCHURCH ROAD – PREMISES**

| <b>BUSINESS</b>                                  | <b>EVEN NUMBERS</b> |
|--------------------------------------------------|---------------------|
| William Hill (Entrance on Southchurch Road)      | 2                   |
| Greggs                                           | 2                   |
| Coral Bookmakers                                 | 2b                  |
| Paddy Power/Astral City                          | 4                   |
| Southend Dental Care                             | 4                   |
| Southend Appliance Centre (still appears closed) | 4a                  |
| Consultant Offices (various)                     | 4a                  |
| Slug and Lettuce Pub                             | 6-8                 |
| Specsavers Earcare                               | 10                  |
| Essex Beauty Place                               | 12                  |
| Barts Bar (Entrance upstairs)                    | 14-16               |
| Heroes– ground                                   | 14-16               |
| Vacant                                           | 18                  |
| Nail Icon                                        | 22                  |
| Best: One off licence                            | 24                  |
| SFC Fast Food (closed)                           | 26                  |
| Albermale & Bond                                 | 28                  |
| Legend                                           | 30                  |
| Jade Garden                                      | 32                  |
| Petes Café                                       | 34                  |
| No 1 Juice/ Vape Bar (shop to let)               | 36                  |
| Pauls Discount Clothing                          | 38-40               |
| Cash Converters                                  | 42                  |
| Ajilon Accountancy (closed)                      | 42-82               |
| Angel Nail                                       | 42-82               |
| Hey Baby      4D scan                            | 42-82               |
| Cancer Research shop                             | 42-82               |
| Papa Johns                                       | 42-82               |

|                           |         |
|---------------------------|---------|
| Entice                    | 42-82   |
| Taylor Centre (NHS)       | 42-82   |
| Vacant                    | 96      |
| Dr Chronic                | 96A     |
| Oh Yeah – Vape Shop       | 100     |
| Southend Hydro Group Shop | 102     |
| Cutz and Bladez           | 104     |
| Silver Needles            | 106     |
| Vacant                    | 108-110 |
| Jubilee Centre – MIND     | 112-114 |

#### **ODD NUMBERS**

|                                  |       |
|----------------------------------|-------|
| Metro Bank                       | 1-9   |
| Vacant                           | 11    |
| Victoria News and Wine           | 13    |
| Cookies and Cones                | 15    |
| Cut U Up                         | 17    |
| Nineteen Hairdressers            | 19    |
| Snappy Snaps                     | 21-23 |
| Victoria Shoes (now closed down) | 27-29 |
| 3 <sup>rd</sup> Space            | 31    |
| Subway                           | 33    |
| Warhamer (closed up)             | 35    |
| Oxfam                            | 37    |
| The Corner Coffee House -        | 39    |
| Polski Skelp                     | 55-57 |
| Southend Store                   | 59    |
| Queensway Pharmacy               | 61    |
| Royal Grill                      | 63    |
| Vacant /KCs                      | 65    |
| Bilton and Butcher               | 67    |



|                                     |         |
|-------------------------------------|---------|
| Cookies and Cones                   | 67a     |
| Express                             | 69      |
| Randells Food and Wine              | 71-73   |
| Il Giustro                          | 75      |
| Cow and Telescope Pub               | 77-93   |
| H & T Pawnbrokers                   | 95      |
| Vacant/ Southchurch Centre - closed | 97-99   |
| Andrew The Jewellers                | 101     |
| Essex Food Market                   | 103     |
| Sizzling Pizza                      | 105     |
| Premier Essex Convenience           | 107-109 |
| Southend Discount Store             | 125     |
| Chicken Delight (La Rooster )       | 127     |
| Yoga Dharma                         | 129     |
| Self Shine Hairdressers             | 131     |
| Aasim Indian Restaurant             | 133     |
| Chang Mai Restaurant                | 135     |
| Chartwell Gallery – now closed      | 137     |
| Evolution                           | 139     |
| Jimmys Barbers                      | 141     |

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By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Sex Establishment Licensing Policy

2018

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**  
(as amended by the **POLICING and CRIME ACT 2009**)

**SEX ESTABLISHMENTS LICENSING POLICY**  
**DRAFT LICENSING POLICY FOR CONSULTATION**

| Version History |                |               |
|-----------------|----------------|---------------|
| Version No      | Effective from | Review Date   |
| 1               | December 2011  | November 2017 |
| 2               | December 2018  | 2022          |

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## **I Introduction**

- 1.1 In October 1982, the Council (in its role as the Licensing Authority) resolved to adopt the new powers which had been made available by the Local Government (Miscellaneous Provisions) Act 1982 to control sex establishments, which were defined as sex shops and sex cinemas.
- 1.2 Premises which operated as lap-dancing clubs and similar did not come within the definition of sex establishments and therefore any necessary controls could only be put in place by reference to existing legislation namely the Licensing Act 2003.
- 1.3 The Government deemed the controls insufficient and introduced legislation which has amended the Local Government (Miscellaneous Provisions) Act 1982 to extend the definition of sex establishments to include sexual entertainment venues. In general terms these included premises which have lap dancing, pole dancing, table dancing, strip shows and live sex shows.
- 1.4 On 15<sup>th</sup> December 2011 the Council resolved to adopt the new powers under schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) ('the Act') to control sex establishments, namely sex shops, sex cinemas and sexual entertainment venues. The resolution came into force on 1st April 2012.

## **2 Statement of Licensing Policy**

- 2.1 The Licensing Authority is not legally required to publish a Statement of Licensing Policy but is doing so as a matter of good practice. This policy contains the principles it will apply when exercising its functions under the Act.
- 2.2 The Licensing Authority does not take a moral stand in adopting this policy, or in relation to the principals set out in it. It recognises that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industry. The Council will, as a licensing authority, administer the licensing regime in accordance with the law.
- 2.3 This Policy Statement comes into force on *[date tbc 2018]*. It will be subject to regular review involving further consultation as required.

## **3 Consultation**

- 3.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns which require consideration as part of the licensing function.
- 3.2 In developing this Policy Statement, the Licensing Authority consulted widely. Along with the Police and other authorities, the views of representatives of existing licence holders, businesses, voluntary and support groups and residents were also

taken into account. Due consideration was given to the views of all those who responded to that consultation process.

## **4 Approval of Policy**

- 4.1 This policy was approved at a meeting of the full Council on [date] and was published via its website on [date]. Copies are available on request.

## **5 Exchange of Information**

- 5.1 The Licensing Authority is under a duty to protect the public funds it administers and to this end may use the information provided by applicants for the prevention and detection of fraud. It may also share this information for these purposes with other bodies responsible for auditing or administering public funds for the same purposes.

## **6 Public Register**

- 6.1 The Licensing Authority keeps a public register which may be inspected at the offices of the Licensing Authority on Mondays to Fridays (except bank and public holidays) between 10.00 and 16.00.

## **7 Other Relevant Legislation**

- 7.1 Apart from the legal requirements of the Act, the Council will take into account its duties under other legislation.
- 7.2 In accordance with section 17 of the Crime and Disorder Act 1998, the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in the Borough.
- 7.3 The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) requires the Council not to impede economic progress by its regulations, and, particularly to consider their impact on small businesses.
- 7.4 The Provision of Services Regulations 2009 requires the Council to ensure that its exercising of powers are –
- non-discriminatory;
  - justified by an overriding reason relating to the public interest;
  - proportionate to the public interest objective;
  - clear and unambiguous;
  - objective;
  - made public in advance;
  - transparent and accessible.
- 7.5 The Human Rights Act 1998 - The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a convention right. The Council will take particular notice of the following relevant provisions of the European Convention on Human Rights; –

- Article 6 – that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 – that everyone has the right to respect for his home and private life;
- Article I of the First Protocol – that every person is entitled to the peaceful enjoyment of his or her possessions, including, for example, a licence under this Act.

7.6 The Equality Act 2010 brought together over 116 separate pieces of legislation into one single Act. Combined, they make up an act that provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. In particular, the council is mindful of its obligations under section 149, the public sector equality duty, which requires that public bodies have to consider all individuals when carrying out their day-to-day work in shaping policy, and in relation to their decisions on applications under this licensing regime.

The duty also requires that public bodies have due regard to the need to:

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations between different people when carrying out their activities.

## 8 Definitions under the Act

8.1 Sex establishment premises fall into one of three categories:

- sexual entertainment venues;
- sex shops; or
- sex cinemas.

8.2 A sexual entertainment venue is defined in Paragraph 2A of Schedule 3 as *‘any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer’*. ‘Relevant entertainment’ 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)’*.

8.3 The category ‘sexual entertainment venues’ includes the following forms of entertainment as they are commonly understood:

- lap dancing;
- pole dancing;
- table dancing;
- strip shows;
- peep shows; and
- live sex shows;

This entertainment is defined as ‘relevant entertainment’. This list is not exhaustive, and the Licensing Authority will consider the content of the entertainment to be provided at any premises when deciding whether a licence is required.

- 8.4 Premises which provide relevant entertainment on an infrequent basis are not required to be licensed as a sexual entertainment venue by the Licensing Authority. These exempted premises are defined as premises where –
- no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
  - no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
  - no such occasion has lasted longer than 24 hours;

Such premises will continue to be regulated under the Licensing Act 2003, in so far as they are providing regulated entertainment under that Act. The Licensing Authority will carefully monitor the use of the exemptions.

- 8.5 Licences for sex shops are required where the business consists to a significant degree of selling, displaying etc sex articles. ‘Sex articles’ are defined in the 1982 Act and include the sale of BBFC classified R18 films. The phrase ‘a significant degree’ is not defined, but in determining whether a business needs a licence, the Licensing Authority will consider the ratio of sex articles to other aspects of the business, the absolute quantity of sales, the character of the remainder of the business, the nature of the displays, turnover, and any other factors it considers material.
- 8.6 Licences for sex cinemas are required where the business consists to a significant degree for the exhibition of moving pictures, which are concerned primarily with the portrayal of or intended to stimulate or encourage sexual activity or acts of force or restraint which are associated with sexual activity or are concerned primarily with the portrayal of or relate to, genital organs or urinary or excretory functions.

## **9 General Principles**

- 9.1 This policy does not undermine the rights of any person to apply under the Act and to have their application considered on its individual merits, nor does it override the right of any person to object to any application.
- 9.2 The Licensing Authority has certain expectations in respect of applicants and the information they produce about the operation of the premises. It is for applicants to decide on the extent of the measures they believe to be appropriate but when assessing the application the Licensing Authority may add additional conditions as set out in this section.
- 9.3 Applicants are advised to consider providing evidence that suitable and sufficient control measures will be implemented and maintained relevant to the nature and mode of operation of their premises.

- 9.4 Duplication with other regulatory regimes should be avoided. In particular, applicants should have regard to the fact that the Council's licensing function will be discharged separately from its other functions such as any planning requirements. Normally, applications should be from businesses with appropriate planning consent for the property concerned.
- 9.5 Where valid objections are made the licensing committee will make objective judgments as to whether conditions need to be attached to a licence. Any such conditions will primarily focus on the direct impact of the activities taking place at the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters which are within the control of individual licensees.
- 9.6 Conditions which seek to control the range or nature of activities within the premises may be necessary. Such conditions may also seek to directly impact upon the behaviour of customers on, or within the immediate vicinity of, the premises.
- 9.7 When considering applications the Licensing Authority will have regard to the Act, this policy, statutory guidance, all supporting regulations and relevant legislation.
- 9.8 The Council has standard conditions for sex shops and sexual entertainment venues, and these are set out in Appendix I.

## **10 Policy Guidelines**

### **10.1 Limiting the Number of Sex Establishments in Pre-Defined Localities**

- 10.1.1 The Council has decided to use its powers under Paragraph 12(3)(c) of Schedule 3 to define 'relevant localities', and to establish how many sex establishments, or sex establishments of a particular kind, it considers appropriate in each such relevant locality. The Licensing Authority will determine each application in the context of the limit that it has set.
- 10.1.2 The Council has determined that the whole borough is considered as the relevant locality for the purposes of this section. However in the event that an applicant successfully evidences to the licensing committee that their application should not be subject to the limitations outlined below, then the Licensing Authority will apply the parameters set out in section 10.2 when considering the character of the locality.
- 10.1.3 There are currently 2 licensed sex shops in the relevant locality
- 10.1.4 There are currently 4 licensed sex entertainment venues in the relevant locality
- 10.1.5 There are currently no licensed sex cinemas in the relevant locality
- 10.1.6 Without prejudice to sections 9.1 & 10.3.1 of this policy, The Council does not consider any area within the Borough to be an appropriate location for

any sex shops, sex entertainment venues, or sex cinemas and sets the following limits with the aim that it should drop downwards to zero in the event that a licence is surrendered, revoked or not renewed:

- licensed sex shops
- licensed sex entertainment venues
- 0 licensed sex cinemas

## **10.2 The Character of the Locality of the Applicant Site**

10.2.1 The Licensing Authority acknowledges that the character of a locality is not something that remains static, but which can alter at any time or over a period of time. Its decision on an application will be based on its assessment of the character of a locality at the time an application is determined. The Licensing Authority's general view when determining an individual application, is that 'locality' is where the premises that is the subject of the application is situated, including, but not necessarily exclusively, its immediate vicinity.

10.2.2 As a general rule, a locality whose character falls predominantly into one or more of the following categories will generally be considered inappropriate for the grant or renewal of a sex establishment licence:

- family and child oriented leisure or shopping areas; and
- predominantly family residential areas, with or without retail, fast food etc outlets serving the local population.

10.2.3 In considering applications for the grant of a new licence, the Licensing Authority will also take account of the potential impact of the licensed activity on crime and disorder, and where there is already one or more sex establishment premises in the locality, the cumulative impact of an additional licensed sex establishment premises.

10.2.4 It is expected that an applicant should demonstrate within their application that the operation will not have an adverse effect on the locale. The Licensing Authority recommend the applicant carries out a local area risk assessment to achieve this and the authority has produced a local area profile to assist in that regard. (available on [www.southend.gov.uk](http://www.southend.gov.uk))

## **10.3 The Use of Premises in the Vicinity**

10.3.1 The Licensing Authority will generally consider it inappropriate to renew a sex establishment licence if there has been a material change in the area since the grant of the licence where the proposed sex establishment is near to –

- community facilities or public buildings, including but not limited to, leisure centres, public parks and play areas, youth centres, children's centres, sheltered housing;

- schools, nurseries and similar premises; and access routes to and from the same;
- family shopping areas;
- places of worship;
- family residential areas;

As may be relevant in any particular application, the Licensing Authority will have regard to the licensee's or proposed licensee's operating hours or other operational requirements.

#### **10.4 Layout, Character and Condition**

10.4.1 With regard to an application for the grant or renewal of a licence, the Licensing Authority will also take into account the layout, character or condition of the premises, vehicle, vessel or store in respect of which the application is made.

10.4.2 The Licensing Authority will, in considering applications for renewal, take into account past demonstrable adverse impact from the activity and whether appropriate measures which have been agreed are properly implemented by the applicant to mitigate any adverse impacts. Such consideration may include any enforcement action taken by the Licensing Authority

### **11 Advice and Guidance**

11.1 Pre-application discussions are encouraged to assist applicants to develop their proposals. Officers of the Licensing Authority, together with those of other relevant authorities, will endeavour to provide guidance at that stage, as resources permit.

11.2 Where appropriate to do so, officers of the Licensing Authority will assist applicants to work with others who may make representations with a view to resolve areas of concern.

11.3 Once an application has been lodged there are statutory timescales imposed on the application and determination process which restrict the opportunity for such discussions, liaison and mediation.

### **12. Application**

12.1 The forms which the applicant must use for the application and public notice are obtainable from the Council's website. If other forms are submitted they will be rejected.

12.2 The Licensing Authority aims to determine your application within 28 days of the end of consultation period. If it fails to do it will inform the parties accordingly.

- 12.3 Tacit authorisation (as set out in the Provision of Services Regulations 2009) does not apply because different arrangements are in place.

### **13 Objections**

- 13.1 Any person can object to an application but the objection must be relevant to the grounds for refusing an application set out in paragraph 12 of Schedule 3 of the Act and repeated within this policy.
- 13.2 Objections shall not be based on moral grounds or values.
- 13.3 Objectors must give notice of their objection in writing within the specified period. They should give as full an explanation as possible of their reasons for making an objection.
- 13.4 The Licensing Authority shall not reveal an objector's name or address to the applicant without the consent of the person making the objection.
- 13.5 If there are no objections the application will be dealt with by the Licensing Authority's licensing officers under the scheme of delegation. All relevant standard conditions outlined in the appendices to this policy will be attached to licences issued. If there are objections, the application will be considered by the licensing sub-committee at a public hearing.
- 13.6 Mandatory Conditions are imposed by the Act whether or not the application is opposed.

### **14 Licensing Committee**

- 14.1 The full Licensing Committee is composed of 15 Councillors. A contested application will be heard by sub-committee 'C'.
- 14.2 When considering applications the sub-committee will have regard to this policy, statutory guidance, the Act together with The Human Rights Act 1998 and other legislation as appropriate.
- 14.3 Each application is considered on its individual merits.
- 14.4 Should the sub-committee decide to approve the application, the Mandatory Conditions must be applied. In addition, the sub-committee will determine whether other conditions need to be attached to the licence.

### **15 Conditions/Control Measures**

- 15.1 The Licensing Authority expects that unless there is a specific reason not to do so the licence conditions which are currently in force for sex establishments will be included in any conditions to be imposed on a licence. These are attached at appendix I



- 15.2 In addition, the Licensing Committee may wish to include other control measures. This may include but shall not be limited to:-
- Consideration as to if the location of the premises is appropriate or inappropriate; and
  - Consideration as to if the premises are appropriate for a particular locality

## **16 Grounds of Refusal**

### **16.1 Mandatory Grounds of Refusal**

- (1) The applicant is under 18 years of age;
- (2) The applicant has been disqualified for a period of 12 months following the revocation of a licence for a sex establishment in the same area;
- (3) The applicant (other than a body corporate) is not resident in the United Kingdom or a European Economic Area State or was not so resident throughout the period of 6 months immediately preceding the date when the application was made;
- (4) The applicant company is not incorporated in United Kingdom or a European Economic Area State; or
- (5) There has been a refusal within the previous 12 months of the grant or renewal of a sex establishment licence to the applicant in respect of the premises for which the application is made.

### **16.2 Discretionary Grounds of Refusal**

- (1) Unsuitability of the applicant;
- (2) The business would be managed by or carried on for the benefit of a 3<sup>rd</sup> party who would themselves be refused a licence;
- (3) The number of sex establishments in a specific locality (or of sex establishments of a particular kind) in a specific locality equals or exceeds the number considered appropriate for that locality; or
- (4) That the grant or renewal of the licence would be inappropriate having regard to-
  - the character of the locality;
  - the use to which other premises in the vicinity are put; or
  - the lay-out, character, or condition the premises in respect of which the application is made.

## **17 Fees**

- 17.1 Fees are regularly reviewed and are advertised on the Council's website

## 18 Appeals

- 18.1 If an application for the grant, renewal or transfer of a sex establishment licence is refused the applicant may have the right of appeal to the Magistrates' Court but there are a number of exceptions to this. In certain circumstances the applicant can only challenge the refusal by way of judicial review.

## 19 Renewal

- 19.1 Licences expire annually and must be renewed every year. Renewal is not an automatic grant. **Applications for renewal which are not received at least 28 days prior to the expiry of the existing licence may be treated as applications for a new licence. As such they will be subject to the appropriate fee structure and to the appropriate sections of this policy in regard to new applications, including section 10.1.6 (limiting the number of sex establishments in pre-defined localities)**

## 20 Compliance and Enforcement

- 20.1 In exercising its functions with regard to the inspection of premises and to the institution of criminal proceedings for offences committed under the Act, the Licensing Authority will follow best practice which requires that actions should be-
- Proportionate - intervention will only take place when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
  - Accountable - the Licensing Authority must be able to justify its decisions and be subject to public scrutiny
  - Consistent - rules and standards must be joined up and implemented fairly.
  - Transparent - enforcement should be open and regulations kept simple and user friendly.
  - Targeted - enforcement should be focused on the problems and minimise side effects.
- 20.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and will adopt a risk based inspection programme.
- 20.3 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 20.4 The Licensing Authority's enforcement/compliance protocols are available on request.

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**  
**(as amended by the POLICING and CRIME ACT 2009)**

**Sex Establishments Licensing Policy**

**Appendix I – Conditions**

The following conditions will normally be added to all licences granted. Additional conditions may also be added at the discretion of the Licensing Authority.

**ALL PREMISES**

- 1) The licensee or a responsible person nominated by them in writing, not being under a person under 21 years of age, and whose nomination has been approved in writing by the Licensing Authority, shall be in charge of and present in the premises at all times when the public are on the premises.
- 2) The person in charge shall not be engaged in any duties which will prevent them from exercising general supervision.
- 3) The licence (including a copy of the conditions attached to it) shall be exhibited at the premises in a place where it can be easily seen and each page can be read by people visiting the premises.
- 4) There shall be no noise coming from the premises which would cause people in the neighbourhood to be unreasonably disturbed.
- 5) The licensee shall take all reasonable steps to ensure that people entering or leaving the premises do not conduct themselves in such a manner so as to cause disturbance or nuisance to residents or passers-by.
- 6) The business shall be carried on only in the trade name or title, and at the address, specified in the licence.
- 7) The business shall be carried on only as the type of sex entertainment venue described in the application.
- 8) Where the licensee is a corporate or unincorporated body, any change of director/partner or other persons to be responsible for the management of the premises shall be notified in writing to the Licensing Authority within 14 days of such change and further information as required by the Licensing Authority shall be given in writing within 14 days of such a request being made.
- 9) The licensee shall retain control over all parts of the premises and shall not let, share, or part with possession of any part of the premises. No change of use of any

part of the premises shall be made without prior approval of the Licensing Authority.

- 10) In the conduct of the business the licensee shall not employ any person:-
  - (a) who has been disqualified from holding a licence for a sex establishment
  - (b) who has been refused the grant or renewal of a licence for a sex establishment
  - (c) who has been the holder of a licence for a sex establishment when that licence has been revoked.
- 11) The licensee shall ensure that no employee or other person seeks to obtain custom for the premises by means of personal solicitation within the Borough.
- 12) Sex articles as defined by the Local Government (Miscellaneous Provisions) Act 1982 shall not be displayed, sold, exchanged, loaned or demonstrated other than within a sex shop.
- 13) The interior of the premises shall not at any time be visible from the outside.
- 14) The number, size and position of the doors or openings provided for the use of the public shall be approved by the Licensing Authority and those leading to parts of the premises to which the public does not have access shall be marked 'private'.
- 15) No access shall be permitted through the premises to any unlicensed premises adjoining or adjacent save in an emergency.
- 16) Lighting in all parts of the premises both internal and external shall be as approved by the Licensing Authority and be in operation continuously during the whole of the time the premises are open to the public.
- 17) There shall be no distribution of leaflets or other advertising material relating to the premises. (this provision includes on-vehicle advertising and static adverts such as A-boards, posters and bill boards).
- 18) No advertisement, display, sign, imagery, model or other such things shall be exhibited either at the premises or any other premises giving access to the premises so as to be visible from outside the premises except for the following:
  - (a) any notice of a size and in a form approved in writing by the Licensing Authority
  - (b) a compulsory warning notice, of a minimum size A4, shall be displayed at the each entrance to the premises.
    - i. The warning notice for sex shops and sex cinema's shall state: - "WARNING Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age."
    - ii. The notice for sex entertainment venues shall state: - "WARNING Persons passing beyond this notice will find nudity shows which they may consider indecent. No admittance to persons under 18 years of age."
    - iii. The word "WARNING" must appear as a heading.

- iv. The warning notice shall contain only the prescribed words, and no others
  - v. No pictures or other matter shall appear on the notice.
  - vi. The notice must be placed so it is easy to read and no-one could reasonably gain access to the premises without being aware of it.
- 19) No external loudspeakers may be installed or used.
  - 20) No person who is apparently under the age of 18 years, or who is known to any person connected with the licensee's business and present at the premises to be under that age, shall be admitted to or allowed to remain at the premises.
  - 21) The Licensee shall operate a challenge 25 policy where by any person who appears to be under the age 25 years shall be required to provide ID showing that they are at least 18 years of age. The only acceptable forms of ID shall be a UK photographic drivers licence, a passport or a 'PASS' approved ID card. A refusals log shall be maintained whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Licensing Authority.
  - 22) The Licensee shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction. Written training records shall be maintained at the premises and be available for inspection upon request by the Police or an authorised officer of the Licensing Authority.
  - 23) The Licensee shall ensure that they submit a variation application before carrying out any change to the structure or management of the premises.

## **SEX ENTERTAINMENT VENUES**

- 1) Performers may not stand in any lobby, reception or foyer areas or outside area of the premises for the purposes of greeting customers or encouraging customers to enter the venue.
- 2) The Licensee shall nominate a Duty Manager for the premises on each occasion they are open to the public and being used for the purposes of providing relevant entertainment.
- 3) The Licensee shall ensure the rota of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Licensing Authority officers carrying out an inspection of the premises, or otherwise by persons using the venue. The full name of the appropriate duty manager shall be included on the rota.
- 4) The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.

- 5) The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
- 6) The prices for entrance and any compulsory purchases within the venue, shall be clearly displayed at the entry point of the premises.
- 7) No charge shall be applied unless the customer has been made aware of the tariff of charge by the performer in advance of the performance.
- 8) The use of any cruising cars or any other wheeled carriage [whether for the purposes of hire or reward or not] by the premises to solicit customers and/or transport to or from the premises is prohibited.
- 9) An appropriate number of door supervisors registered with the Security Industry Authority shall be on duty to ensure that:
  - All public areas of the premises are continually monitored to ensure the Dancers and Customers Codes of Conduct and any licence conditions are being complied with.
  - Persons breaching the Customers Code of Conduct or otherwise behaving in a disorderly manner can be safely ejected from the premises.
  - Customer numbers are monitored to ensure additional door supervisors will be available on a risk assessed basis.
  - At all times the premises is open to the public there is a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place and one member of security staff at the public entrance/exit to the premises.
- 10) Private booths shall not be fully enclosed. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.
- 11) All private booths shall be fitted with a panic button or security alarm tested regularly with test results recorded in writing.
- 12) The Licensee shall undertake appropriate checks to ensure each dancer is eligible to work in the United Kingdom and shall not allow dancers ineligible to work in the UK to work at the premises. Appropriate records of the checks shall be kept at the premises and made available to Police and/or immigration officers upon request.
- 13) The Licensee shall maintain written records of all dancers working at the premises. The records shall show the dancer's full name, home address, date of birth and a certified photocopy of their passport (or a UK driving Licence) and the date the dancer was provided with the Dancers Code of Conduct and Disciplinary Procedure. Such records shall be produced for inspection by Police and authorised Licensing Authority Officers on request. Any instances of the dancer breaching the Dancers Code of Conduct shall be recorded on the dancer's record, showing the date and time of the incident and details of the breach that occurred.

Such records shall be kept for a minimum of 6 months following cessation of their employment or work at the premises.

- 14) Dancers under the age of eighteen shall not be permitted to work at the premises.
- 15) Dancers shall not be permitted to perform if they are clearly under the influence of alcohol or drugs.
- 16) The licensee shall ensure that an incident log is maintained at the premises. The incident log shall, as a minimum, give details of:
  - Any ejections from the premises
  - Any refused admissions
  - Any refused sales
  - Any inappropriate behaviour by guests
  - Any failure in the CCTV system
  - Any incidents of crime or disorder
  - Any complaints made by the public, guests dancers or other staff
- 17) The incident log shall be completed as soon as reasonably practicable after any incident has occurred and in any case prior to the end of business on the day of the incident. The Licensee shall ensure the incident log is checked periodically and at least at monthly intervals to ensure that staff are completing the incident log.
- 18) The incident log shall be kept in a place where it can easily be accessed by staff working at the premises and all staff shall be aware of its location and the need to complete it in the case of any of the circumstances described above. The incident log shall be made available for inspection to Police or authorised Licensing Authority Officers on request.
- 19) A 'Customers Code of Conduct' shall be on displayed at the entrance to the premises and within the performance areas, and at each customer table. The customer code of conduct shall include the following:-
  - I. Customers shall be seated during a performance.
  - II. There shall be no physical contact with the performers at any time during the performance.
  - III. Unacceptable and inappropriate behavior will result in a customer being removed the premises.
  - IV. Customers may only proposition the performers for a dance and not for any other sexual activity.
  - V. No non-prescription drugs or nitrous oxide may be brought into, or consumed on the premises.
  - VI. No weapons or items which may be used as weapons may be brought into the premises.

- VII. It is a condition of entry that customers may be searched before being permitted to enter the premises.
  - VIII. No photography, either or still of moving imagery, is permitted by the use of the camera, mobile phone or other electronic device.
- 20) The following policies shall be drawn up and agreed with the Police in writing prior to the licence being deemed as 'in force':
    - Misuse of Drugs
    - Searching
    - Smoking
    - The safety of dancers when leaving the premises following any period of work
  - 21) The smoking policy shall include a provision that the smoking area for use by staff shall be kept secure and separate to any public smoking area and that no more than two staff shall be permitted to smoke outside the premises at any one time.
  - 22) A female security officer shall be on duty at all times when body searches are carried out on female customers.
  - 23) The Licensee shall sign-up to and participate in any town link radio system operated for the purposes of dealing with crime, disorder and nuisance in the night time economy within the vicinity of the premises.
  - 24) The Licensee shall ensure there is a 'Dancers Code of Conduct' in force at the premises which shall be displayed at the premises. A copy of the 'Dancers Code of Conduct' and the conditions of the licence shall be made available to the dancers in their own language on request.
  - 25) Dancers may not intentionally touch a customer during a performance.
  - 26) Dancers may not permit a customer to touch them during a performance.
  - 27) Dancers may not straddle the customer.
  - 28) If a customer attempts to touch or speak to a dancer inappropriately, the dancer shall stop the performance and advise the customer of the rules of the Code of Conduct. If the customer persists in an inappropriate behaviour, the dancer shall stop the performance and inform premises management immediately.
  - 29) There shall be no physical contact between dancers while they are performing.
  - 30) Dancers shall not solicit for gratuities or payment for sexual favours.
  - 31) Dancers shall not engage in any act of prostitution, i.e. the receiving of gratuities or payment for sexual favours.



- 32) Dancers may never give out personal information, including telephone numbers, email addresses or other contact details to audience members.
- 33) Dancers may not perform any act which simulates masturbations, oral sex or sexual intercourse, including the insertion of any object, including their own finger, into the mouth, anus or vagina.
- 34) Dancers may not touch their own breasts, anus or genitals with their fingers, lips or tongue.
- 35) Dancers may not be in the company of a customer unless it is in an area of the premises that is open to the public.
- 36) Dancers shall not perform if they are, or appear to be, under the influence of alcohol or drugs.
- 37) If a customer engages in acts of masturbation or other sexual behaviour, the dancer shall cease the performance immediately and inform the premises management.
- 38) Dancers shall be provided with secure and private changing facilities. This shall include the provision of a toilet and, **with effect from 1st March 2019**, a shower, which are for the sole use of the dancers. They shall use the dressing room facilities provided to change for their performance.
- 39) Dancers shall only use the smoking area provided specifically for their use.
- 40) Dancers shall only use the sanitary facilities specifically provided for their use.
- 41) Dancers shall be fully clothed (i.e. no nudity) when not performing.
- 42) Dancers shall not leave the premises or otherwise be visible outside the premises, including for smoking breaks, unless dressed in suitable attire, eg. outer-wear consisting of coat or top and skirt or trousers so lingerie or other performance costume is not visible. No advertising shall be displayed on dancers clothing when worn outside the premises during breaks.
- 43) Dancers shall notify management in the event of his or her spouse, civil partner, boyfriend or girlfriend being on the premises.
- 44) The Licensee shall ensure that a zero tolerance policy in respect of illegal drugs is in place. In pursuance of that policy dancers shall be subject to search and a procedure within the policy shall whereby dancers sign to confirm consent to appropriate searches being carried out.
- 45) The Licensee shall signpost performers and staff to suitable support services. This shall include, but not be limited to, details of support services for victims of sexual harassment and/or sexual violence. This shall include the provision of leaflets sited within the changing area and handed to each performer prior to commencement of their contract/employment.

- 46) All dancers shall comply with the dancers Code of Conduct. Any failure to adhere to the Code of Conduct shall render the dancer subject to the house Disciplinary Rules, a copy of which shall be provided to each dancer.
- 47) No films may be shown at the premises unless they have been passed by the British Board of Film Classification. No films classified as R18 shall be shown on the premises
- 48) The Closed Circuit Television (CCTV) system shall cover all public areas of the premises including all areas where performances of sexual entertainment are conducted, and be maintained in good working order to:
- a) Operate on 'real-time' at a minimum rate of 20 frames-per-second, with constant, correct time/date generation.
  - b) Have a recording capability capable of providing individual pictures.
  - c) Provide clean, clear and unobstructed camera views of evidential quality in all lighting conditions.
  - d) Provide correctly timed and date stamped recordings - which must be stored in date order, numbered sequentially, kept for a period of at least 31 days and handed to the Police on request.
  - e) Export footage to a removable storage medium with a time and date integral to the image – where possible, to also include any software needed to replay the footage.
  - f) Ensure exported footage at the same, or similar quality to that recorded on the system recording.
  - g) Incorporate at least one camera on every entrance and exit to the premises which gives images clearly showing full height and facial recognition.
  - h) Incorporate at least one camera on all areas where the sale/supply of alcohol occurs- individuals must be recognisable.
  - i) Incorporate at least one camera on any potential queue area external to the premises, and car parking area within the boundary of the premises - individuals must be detectable
  - j) Incorporate a dedicated CCTV camera for each private booth – individuals must be clearly identifiable.
  - k) Ensure that all other cameras at the premises allow for individuals to be recognisable.

- 49) During all periods of licensable activity authorised by this licence, a nominated and trained 'CCTV Operator' shall be on duty, who is competent in the operation of the CCTV equipment in order to:
- a) inspect the CCTV system on a daily basis, and ensure that all cameras are in full working order.
  - b) record each inspection on a 'CCTV maintenance' log sheet, and endorse with their signature.
  - c) facilitate the downloading CCTV footage. Images shall be provided to the police upon request.
- 50) During all periods of non-licensable activity, a 'CCTV Operator' must be contactable by the police on a designated emergency-only telephone number. This number must be registered with the local police licensing office.
- 51) A suitable drugs safe/cabinet shall be fitted and any seized items shall be deposited in it. The safe shall be installed at the main entrance and only the Police shall have the access keys. Any seized items shall be placed in a clear bag with a label stating the circumstances of why it is in the safe. A corresponding book to record details of such seizures or found drugs/weapons shall be maintained. The whole of this procedure shall be covered by CCTV from seizure to deposit in safe. (With the exception of the toilets).
- 52) The Licensee shall ensure that a 'grab bag' containing suitable clothing for the use of dancers in the event of an emergency evacuation, is located at the exit to the premises. (Such clothing is defined in condition 43 above).

## **SEX SHOPS**

- 1) The licensee shall obtain prior written approval from the Licensing Authority as to the method of disposal of sex articles otherwise than by sale, hire, exchange or loan. Notwithstanding that all refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
- 2) All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a the shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged
- 3) No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

- 4) No moving picture or display or recorded sound of any description or however provided shall be permitted on the licensed premises except for a period necessary to check a recording for fault by the licensee or for a period of not more than one minute for the sole purpose of demonstrating it to a prospective purchaser or hirer of the article in question and such display shall be in a booth to which there shall only be permitted the prospective purchaser or hirer and any one person employed by the Licensee to sell or hire such articles. The Licensee shall not make any charge or permit any charge to be made for such a display as mentioned in this condition.
- 5) Premises licensed as a Sex Shop under the provisions of Schedule III of the Local Government (Miscellaneous Provisions) Act, 1982, shall be used only for the purposes of a Sex Shop as defined in Paragraph 4 of said Schedule III and shall not be used, wholly or in part, for any other purposes during the period the premises are licensed as a Sex Shop.



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# **Sexual Entertainment Venues**

Guidance for England and Wales

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## MINISTERIAL FOREWORD



In September 2008, the previous Home Secretary announced the Government's intention to give local people greater say over the number and location of lap dancing clubs in their area. This followed a consultation with local authorities which highlighted concerns that existing legislation did not give communities sufficient powers to control where lap dancing clubs were established.

In order to address these concerns, section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities in England and Wales the power to regulate such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

These new measures, which take effect on 6th April 2010 in England and on 8th May in Wales, will, if adopted by local authorities, give local people a greater say over where and how many lap dancing clubs open and operate in their neighbourhoods.

These are important reforms to further empower local communities and the purpose of this guidance is to provide advice to local authorities, operators, local people and other interested parties on the new measures introduced by section 27 and the associated secondary legislation.

**Alan Campbell**

A handwritten signature in dark ink that reads "Alan Campbell". The signature is written in a cursive style.

**Parliamentary Under-Secretary of State for Crime Reduction**

**March 2010**

# INTRODUCTION

## Definitions

### 1.1 In this guidance –

The “2009 Act” means the Policing and Crime Act 2009

The “1982 Act” means the Local Government (Miscellaneous Provisions) Act 1982

The “2003 Act” means the Licensing Act 2003

“Section 27” means section 27 of the Policing and Crime Act 2009

“Schedule 3” means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982

## Policing and Crime Act 2009

1.2 Section 27 introduces a new category of sex establishment called ‘sexual entertainment venue’, which will allow local authorities to regulate lap dancing clubs and similar venues under Schedule 3.

1.3 Section 27 gives local authorities more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

## The Guidance

1.4 The guidance is provided for local authorities carrying out their functions under Schedule 3, as amended by section 27. It will also be of use to operators, the police and the general public.

- 1.5 Interpretation of the relevant primary and secondary legislation is ultimately a matter for the courts. However, local authorities are encouraged to have regard to the guidance when exercising their functions (although there is no statutory requirement to do so) in order to promote best practice and consistency across England and Wales.
- 1.6 The guidance is composed of 3 sections. Section 2 focuses on the 2009 Act and the definition of 'sexual entertainment venue'. Section 3 provides an explanation of the meaning and effect of Schedule 3 to the 1982 Act and section 4 provides guidance on the transitional provisions as set out in the transitional orders: *The Policing and Crime Act 2009 (Commencement No.1 and Transitional and Saving Provisions)(England) Order 2010* and the *Policing and Crime Act 2009 (Consequential Provisions )(England) Order 2010* and any equivalent orders made by Welsh Ministers in respect to Wales.
- 1.7 Apart from extending the scope of the 1982 Act to cover the licensing of sexual entertainment venues and removing the sex encounter establishment category in those local authority areas that adopt the new provisions, the 2009 Act and the associated secondary legislation makes only minor changes to the operation of Schedule 3.
- 1.8 Section 27 of, and Schedule 3 to, the 2009 Act come into force in England on 6<sup>th</sup> April as does the Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010. In Wales, the equivalent provisions come into force on 8<sup>th</sup> May 2010.

## POLICING AND CRIME ACT 2009

### Meaning of Sexual Entertainment Venue

- 2.1 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment' for the purposes of these provisions. 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."*
- 2.2 The meaning of 'relevant entertainment' is *"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)."* An audience can consist of just one person (e.g. where the entertainment takes place in private booths).
- 2.3 While local authorities should judge each case on its merits, we would expect that the definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood:
- Lap dancing
  - Pole dancing
  - Table dancing
  - Strip shows
  - Peep shows
  - Live sex shows
- 2.4 The above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should only be treated as indicative. Ultimately, decisions to licence premises as sexual entertainment venues shall depend on the content of the entertainment provided and not the name it is given.

- 2.5 For the purposes of these provisions a premises includes any vessel, vehicle or stall but does not include a private dwelling to which the public are not admitted.

## Nudity

- 2.6 It is important to note that although the definition of relevant entertainment makes reference to a 'live display of nudity', the mere fact that there is a display of nudity does not mean that a sex establishment licence will necessarily be required. For example, if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.
- 2.7 Paragraph 2A(14) of Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

## The Organiser

- 2.8 The relevant entertainment must be provided for the financial gain of the 'organiser' or 'entertainer'. The 'organiser' means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.
- 2.9 The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for

one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

### **Spontaneous Entertainment**

- 2.10 Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser may be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

### **Premises that are not sexual entertainment venues**

- 2.11 Paragraph 2A(3) of Schedule 3 sets out those premises that are not sexual entertainment venues. These are:

- sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act);
- premises which provide relevant entertainment on an infrequent basis. These are defined as premises where-
  - a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
  - b) no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
  - c) no such occasion has lasted longer than 24 hours.
- other premises or types of performances or displays exempted by an order of the Secretary of State.

- 2.12 Premises which provide relevant entertainment on an infrequent basis will continue to be regulated under the 2003 Act, insofar as they are

providing regulated entertainment under that Act, either by virtue of a premises licence or club premises certificate issued under Part 3 or Part 4 or a temporary events notice issued under Part 5 of that Act. Any premises that provide relevant entertainment on more occasions, more frequently or for a longer period of time than is permitted under the exemption will be operating as a sexual entertainment venue and will have committed an offence under Schedule 3 unless they hold a sexual entertainment venue licence or the local authority has waived the requirement for such a licence.

### **Amendments to the Licensing Act 2003**

- 2.13 Schedule 7 to the 2009 Act amends the 2003 Act to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the 1982 Act) do not also require a premises licence, club premises certificate or temporary events notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act. However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment), they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the 2003 Act for those other activities, subject to any exceptions contained in that Act.
- 2.14 In practice, this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 2.15 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from



the definition of regulated entertainment in the 2003 Act. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to. (Nor will providing entertainment facilities for the purposes of the provision of relevant entertainment be regulated entertainment under the 2003 Act).

- 2.16 Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment venue licence but will instead need an appropriate authorisation under the 2003 Act, for example, to cover the performance of dance. The exemption from requirements of the 2003 Act for live music or the playing of recorded music which is integral to relevant entertainment does not apply to such venues.

### **Consultation with Local People**

- 2.17 If a local authority has not made a resolution to adopt the provisions introduced by section 27 within one year of it coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.
- 2.18 The purpose of this duty is to ensure that local authorities consider the views of local people where, for whatever reason, they have not adopted the provisions.
- 2.19 This duty should be seen to be an extension to existing general duties on local authorities to consult and involve local people when exercising their functions.
- 2.20 The 2009 Act is not prescriptive about how local authorities should consult with local people in order to comply with this duty. Local authorities have extensive experience of engaging with local people and will know what works best in their individual areas. Clearly, the Secretary of State expects that any consultation exercise carried out under this duty will be fair and meaningful. Local authorities should

seek to make any relevant information available to local people in order to inform their understanding and publish the outcomes of the consultation on the internet.

- 2.21 In practice, local authorities may decide to consult local people on this matter when they consult and involve local people on broader local priorities and crime and disorder or anti-social behaviour priorities as part of their work to develop Local Area Agreements/Local Delivery Agreements and crime and disorder strategies, as required under various existing duties, including, section 138 of the Local Government and Public Involvement in Health Act 2007 and regulation 12 of the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007. This will ensure that consultations are not onerous and form part of the ongoing engagement with local communities undertaken by all local authorities.
- 2.22 For the purposes of this duty 'local people' are defined as anyone who lives or works in the local authority area.

## **SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

### **The Appropriate Authority**

- 3.1 The appropriate authority is responsible for determining applications for sex establishment licences. For the purposes of the 1982 Act 'appropriate authority' means the local authority which passed a resolution under section 2 of that Act to adopt Schedule 3 in their area. 'Local authority' means—
- (a) the council of a district (including a unitary County Council) or, in Wales, the principal council<sup>1</sup>;
  - (b) the council of a London borough; and
  - (c) the Common Council of the City of London.

### **Committee or Sub-Committee**

- 3.2 Functions under Schedule 3 are the responsibility of the full council of the appropriate authority, as defined above. Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.
- 3.3 An authority may delegate its functions to those who sit on its licensing committee set up to discharge licensing functions under the 2003 Act. However, when dealing with an application for a sex establishment licence, the members of the committee would not be acting as the licensing committee under the 2003 Act and would instead be exercising their functions under Schedule 3.

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<sup>1</sup> See section 2 of the 1982 Act. Section 17 of the Local Government (Wales) Act 1994 provides that legislative references to district councils are to be interpreted as references to principal councils in Wales. Unitary County Councils have all the functions and powers of district councils.

## Adopting the Provisions

- 3.4 Section 27 comes into force on 6<sup>th</sup> April 2010 in England and 8<sup>th</sup> May in Wales<sup>2</sup>. On or following this date local authorities may resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in their area.
- 3.5 Although many local authorities will have already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by Section 27 will have effect in the local authority area. However, where a local authority has not resolved to adopt Schedule 3 to the 1982 Act before the coming into force of Section 27, the amendments made to Schedule 3 by section 27 will apply automatically if a resolution to adopt Schedule 3 is made subsequently (see Schedule 3 to the 2009 Act).
- 3.6 The procedure for local authorities to adopt Schedule 3 as amended by section 27 is set out in section 2 of the 1982 Act. Firstly, the local authority must pass a resolution specifying that Schedule 3 or, in the case of an authority where Schedule 3 is already in force, the amendments made by section 27 to that Schedule, shall apply to their area and the day on which it or they shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed.
- 3.7 The local authority shall publish notice that they have passed a resolution under section 2 of the 1982 Act or (in cases where Schedule 3 is already in force but the local authority is adopting the amendments made by section 27) paragraph 2(2) of Schedule 3 to the 2009 Act for two consecutive weeks in a local newspaper that is circulated in their area. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the

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<sup>2</sup> Section 27 (11) was brought into force on 2nd March 2010 but only for the purpose of making the transitional orders.

local authority's area. The notice should state the general effect of Schedule 3.

- 3.8 While there is no statutory duty to do so, prior to deciding whether to pass a resolution, local authorities may, as a matter of good practice, wish to seek the views of local people and businesses. The Secretary of State also encourages local authorities to engage with known sexual entertainment venues at the earliest possible opportunity once a decision to adopt the provisions has been made, to ensure affected businesses are aware of what action they will need to take in order to comply with the new regime.

### **Requirement for a Sex Establishment Licence**

- 3.9 Any person wishing to operate a sex establishment as defined by Schedule 3 requires a sex establishment licence, unless the requirement for a licence has been waived by the appropriate authority.
- 3.10 An applicant can apply for a waiver either as part of the application for a licence or separately. The local authority can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days notice.

### **Premises that are deemed to be Sexual Entertainment Venues**

- 3.11 Paragraph 27A of Schedule 3 deems premises with licences to operate as sexual entertainment venues to be sexual entertainment venues whilst their licence remains in force, irrespective of how frequently they are or have been providing relevant entertainment. This remains the case even if premises operate within the exemption for infrequent events.

- 3.12 If an operator with a sexual entertainment venue licence is operating within the exemption for infrequent events and no longer wants their premises to be treated as a sexual entertainment venue (e.g. because they are no longer operating as a lap dancing club) they may write to the relevant local authority to request that their licence be cancelled. Upon receiving such a request from a licence-holder a local authority must cancel the licence in question.

## Notices

- 3.13 Applicants for a sex establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made.
- 3.14 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 day beginning with the date the applications was made.
- 3.15 All notices should be in the form prescribed by the appropriate authority and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.
- 3.16 There are similar notification requirements for applications made under the 2003 Act. Where an applicant is making an application under both Schedule 3 and the 2003 Act at the same time they may wish to combine these requirements where permitted.

## Application Forms

- 3.17 Unlike the 2003 Act there is no prescribed application form for an application made under Schedule 3 to the 1982 Act. However, the application must be in writing and contain the details set out in paragraph 10 of Schedule 3 along with such other details as the

appropriate authority may reasonably require. Local authorities must provide for applications to be made electronically and may produce and publish recommended application forms for sex establishment licences setting out all the details required.

### Single Point of Contact

- 3.18 Following amendments to sub-paragraph 10(14) made by the Provision of Services Regulations 2009, where an application for the grant, renewal or transfer of a licence is made by means of a relevant electronic facility it will be the responsibility of the appropriate authority to send a copy of an application to the chief officer of police, not later than 7 days after the date the application is received.
- 3.19 Where an application is made by any other means the responsibility to send a copy of the application to the chief officer of police within 7 days of the application being made will remain the responsibility of the applicant.
- 3.20 For the purpose of Schedule 3 a relevant electronic facility means the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009 or any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.

### Fees

- 3.21 Schedule 3 to the 1982 Act states that an application for the grant, renewal, variations or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authorities, but does not expand on what would be considered to be reasonable.
- 3.22 However, local authorities should have regard to the following documents when determining their fee: *The European Services*

*Directive: Guidance for Local Authorities<sup>3</sup> and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees within the service sector.<sup>4</sup>*

## Objections

- 3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values<sup>5</sup> and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

## Hearings

- 3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.
- 3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no

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<sup>3</sup> <http://www.berr.gov.uk/files/file50026.pdf>

<sup>4</sup> [www.lacors.gov.uk](http://www.lacors.gov.uk)

<sup>5</sup> R v Newcastle upon Tyne City Council ex parte The Christian Institute [2001] B.L.G.R. 165



obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.<sup>6</sup>

## Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- (a) to a person under the age of 18;
- (b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.28 A licence may be refused where:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

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<sup>6</sup> R v Plymouth City Council v Quietlynn [1998] Q.B. 114.

- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- (d) that the grant or renewal of the licence would be inappropriate, having regard—
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.<sup>7</sup>

3.31 The Provision of Services Regulations 2009<sup>8</sup> amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

## Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having

<sup>7</sup> *Belfast City Council v Miss Behavin’ Ltd* (Northern Ireland) (2007) [2007] UKHL 19

<sup>8</sup> Regulation 47

regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated;  
and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.<sup>9</sup>

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding that two sex establishments 200 miles away from one another were in the same

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<sup>9</sup> See R v Peterborough City Council ex parte Quietlynn 85 L.G.R. 249 for further guidance.

locality. Case law also indicates that a relevant locality cannot be an entire local authority area or an entire town or city.<sup>10</sup>

- 3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.
- 3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

### **Licence Conditions**

- 3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.
- 3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:
- The hours of opening and closing
  - Displays and advertisements on or in sex establishments
  - The visibility of the interior of a sex establishment to passers-by
  - Any change of use from one kind of sex establishment to another

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<sup>10</sup> R v Peterborough City Council ex parte Quietlynn 85 L.G.R. 249

- 3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.
- 3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on the each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licences or clubs premises certificate and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

### **Duration of Licences**

- 3.43 Licences for sex establishments can be granted for up to one year.

### **Appeals**

- 3.44 In the event that the appropriate authority refuses an application for the grant, renewal or transfer of a sex establishment licence the applicant may appeal the decision in a magistrates' court, unless the application was refused under 12(3)(c) or (d), in which case the applicant can only challenge the refusal by way of judicial review.

### **Licensing Policies**

- 3.45 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 on its merits at the time the application is made.<sup>11</sup>

- 3.46 A licensing policy for sex establishments might include statements about where local authorities are likely to consider to be appropriate or inappropriate locations for such venues. This could be set out in general terms by reference to a particular type of premises, such as a school or place of worship, or more specifically, by reference to a defined locality.
- 3.47 Local authorities could also use a licensing policy to indicate how many sex establishments, or sex establishments of a particular kind, they consider to be appropriate for a particular locality.
- 3.48 Local authorities can also produce different policies or a separate set of criteria for different types of sex establishments. This might be appropriate to reflect distinctions between the operating requirements of different sex establishments or the fact that the location that a local authority considers appropriate for a sex shop may be different to that of a sexual entertainment venue.

## Offences

- 3.49 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that Schedule and include:
- knowingly causing or permitting the use of any premises as a sex establishment without a licence;
  - being the holder of a licence, knowingly employing a person in a sex establishment who is disqualified from holding a licence;
  - being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;
  - being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable

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<sup>11</sup> R v Peterborough City Council ex parte Quietlynn Ltd (1986) 85 LGR 249

excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;

- being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 to enter the establishment
- being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.

3.50 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.

3.51 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty to this offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Provisions Relating to Existing Premises**

3.52 Where a local authority resolves that Schedule 3 apply in their area having not previously made such a resolution, paragraphs 28 and 29 will have effect for the purpose of sex shop, sex cinemas and hostess bars, but will not have effect for the purpose of sexual entertainment venues. The transitional provisions relating to sexual entertainment venues are explained in part 4 of this guidance.

### **The Services Directive**

3.53 Schedule 3 to the 1982 Act constitutes an authorisation scheme under Article 9 of the EU Services Directive 2006/123/EC (“the Directive”) which was implemented in the UK by the Provision of Services Regulations 2009 (“2009 Regulations”), which came into force on 28th December 2009. Local authorities must ensure they comply with the Regulations when applying the licensing provisions in Schedule 3.

3.54 The Department of Business, Innovation and Skills (BIS) has produced guidance for both businesses and local authorities to assist in

understanding the impact of the Directive and 2009 Regulations and what service providers and relevant authorities must do in order to comply. Both guidance documents can be found on the BIS website: <http://www.berr.gov.uk/whatwedo/europeandtrade/europe/services-directive/page9583.html>

- 3.55 In particular, the 2009 Regulations may affect the way in which local authorities set application fees, process applications and grant licences.



## TRANSITIONAL PROVISIONS

- 4.1 This section provides guidance on the transitional provisions as set out in the *Policing and Crime Act 2009 (Commencement No.1, and Transitional and Saving Provisions)(England) Order 2010* (“the *Transitional Order*”) and the *Policing and Crime Act 2009 (Consequential Provisions)(England) Order 2010* (“the *Consequential Order*”) and the equivalent orders made by Welsh Ministers for Wales.

### Transitional Period

- 4.2 The ‘transitional period’ will last for 12-months beginning with the date that the local authority resolves that Schedule 3 as amended by the 2009 Act will come into force in their area (‘the 1st appointed day’). Six months following the 1st appointed day will be known as the ‘2nd appointed day’ and the day on which the transitional period ends will be known as the ‘3rd appointed day’.
- 4.3 The appointed days will vary across local authority areas depending on when individual local authorities resolve that the provisions will come into force in their area.

### Existing Operators

- 4.4 To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a 2003 Act licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later.

- 4.5 “Preparatory work” refers to work carried out by an operator, such as a refurbishment or refit, in order that they can use the premises as a sexual entertainment venue in the future. The operator will have been granted a 2003 Act licence before the 1<sup>st</sup> appointed day but will not have used the premises as a sexual entertainment venue by that date. It is likely that such operators will be known to a local authority. However, where a dispute arises between a local authority and an licence-holder over whether the licence-holder qualifies as an existing operator by virtue of this provision the local authority will need to seek evidence from the licence-holder to demonstrate that they clearly intended to operate a sexual entertainment venue in the future and work had been done to achieve this end.
- 4.6 For the purposes of the Transitional Order a “2003 Act Licence” means a premises licence or club premises certificate under which it is lawful to provide relevant entertainment.

### **New Applicants**

- 4.7 New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence.

### **Determining Applications Received On or Before the 2nd Appointed Day**

- 4.8 Applicants will be able to submit their application for a sexual entertainment venue from the 1st appointed day onwards.

- 4.9 As the appropriate authority is able to refuse applications having regard to the number of sex establishment they consider appropriate for a particular locality, all applications made on or after the 1<sup>st</sup> appointed day but on or before the 2nd appointed day shall be considered together. This will ensure that applicants are given sufficient time to submit their application and all applications received on or before the 2nd appointed day are considered on their individual merit and not on a first come first serve basis.
- 4.10 No applications shall be determined before the 2nd appointed day. After the 2nd appointed day the appropriate authority shall decide what if any licences should be granted. If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence, it will not take effect until the 3rd appointed day, up to which point they will be allowed to continue to operate under their existing premises licence or club premises certificate.

### **Determining Applications Received After the 2nd Appointed Day**

- 4.11 Applications made after the 2nd appointed day shall be considered when they are made but only once all applications made on or before that date have been determined. However, reference to determination here does not include references to the determination of any appeal against the refusal of a licence.
- 4.12 As with applications received on or before the 2nd appointed day, licences granted to new applicants shall take effect immediately and licences granted to existing operators shall take effect from the 3rd appointed day or, if later, the date the application is determined.

### **Outstanding Applications**

- 4.13 Local authorities should attempt where possible to determine outstanding applications made under the 2003 Act, which include an application for the provision of relevant entertainment, before the date

that Schedule 3 as amended by the 2009 Act comes into force in their area.

- 4.14 Where it has not been possible to determine application before the 1st appointed day, local authorities should advise applicants that they will need to submit an application for a sex establishment licence as set out in Schedule 3 if they wish to provide relevant entertainment. From the 1st appointed day onwards outstanding applicants shall be dealt with as though they are new applicants.

### Existing Licence Conditions

- 4.15 In many cases licences granted under the 2003 Act to existing operators will contain conditions that relate expressly and exclusively to the provision of relevant entertainment. Such a condition might prohibit contact between a performer and customer during a lap dance. In these cases, in order to avoid duplication, where conditions on premises licences or club premises certificates relate only to the provision of relevant entertainment, they shall be read as if they were deleted from the 3rd appointed day onwards.
- 4.16 In cases where conditions on a premises licence or clubs premises certificate are inconsistent with, and less onerous than, the conditions in the licence granted under the 1982 Act they shall likewise be read as though they have been deleted.
- 4.17 Where a local authority decides to grant a sex establishment licence to an existing operator, who is subject to conditions on their existing premises licence or club premises certificate that relate expressly to the provision of relevant entertainment, they may wish to replicate the existing conditions on the new sex establishment licence if they believe that the existing conditions are sufficient. However, they could equally decide to impose new conditions consistent with Schedule 3 if they believe that new or additional conditions are necessary.

- 4.18 Although the Transitional Order does not require redundant conditions to be physically removed from a premises licence or club premises certificate, operators and local authorities may agree that this is desirable in order to clarify the operator's legal obligations. Such changes can be made via the minor variations procedure under section 41A of the 2003 Act.

### ECHR Considerations

- 4.19 The Transitional Order allows local authorities to refuse applications, whether they are from existing operators or new applicants, on one or more grounds set out in paragraph 12 of Schedule 3. When making such decisions, local authorities must take into account any rights the existing operators may have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).
- 4.20 In light of the leading case of *Belfast City Council v Miss Behavin' Ltd* (Northern Ireland)<sup>12</sup> it would be prudent for local authorities to assume that freedom of expression includes the right to use particular premises as sexual entertainment venues and that a person who is denied the right to use his premises as a sexual entertainment venue where he already has a licence to do so under the 2003 Act (or in future under the 1982 Act) has been deprived of possessions. (Some Lords did not decide this point or disagreed that such rights were engaged and therefore it would still be open to local authorities to argue that such rights were not engaged in a particular case). However, in any event, the House of Lords were agreed that such rights would only be engaged at a low level. This led Lord Hoffman to say that if the local authority exercises its powers rationally and in accordance with the purposes of the statutory provisions, it would require very unusual facts for it to amount to a disproportionate restriction on Convention rights.

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<sup>12</sup> [2007] UKHL 19

- 4.21 Nevertheless, local authorities would be well advised to consider whether any interference with the applicant's rights under Article 10 or Article 1, Protocol 1 of the European Convention on Human Rights is necessary and proportionate for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, Protocol 1, can be justified in the general interest.

## **Changes to Licensing Policies**

- 4.22 Many local authorities who have already adopted Schedule 3 will have published a licensing policy for sex establishments. Such policies may provide a useful guide to potential applicants about whether a particular application is likely to be successful or not.
- 4.23 Upon resolving to adopt the sexual entertainment venue provisions introduced by the 2009 Act, local authorities should ensure that their licensing policies for sex establishments are up to date and reflect the changes introduced by Section 27. This could mean updating existing policies or producing a policy specific to regulation of sexual entertainment venues.

## **London**

### **Sex Encounter Establishments**

- 4.24 London local authorities which have adopted Schedule 3 to the 1982 Act as amended by the Greater London Council (General Powers) Act 1986 are able to regulate sex encounter establishments. However, under sub-paragraph 3A(i) premises that hold a premises licence or club premises certificate for the provision of regulated entertainment or late night refreshment are not regarded as sex encounter establishments. This means that, in practice, there are very few, if any, premises that are licensed as sex encounter establishments.

- 4.25 Therefore, the transitional provisions set out that where a local authority, which has previously adopted provisions to regulate sex encounter establishments, passes a resolution to adopt Schedule 3, as amended by section 27, the existing sex encounter establishment category will be replaced by the new sexual entertainment venue category.
- 4.26 In these circumstances, an existing sex encounter establishment licence will be treated as though it had been granted under the new sexual entertainment venue regime with any terms, conditions and restrictions carried over.

### Hostess Bars

- 4.27 The hostess bar category of sex establishment, as introduced by section 33 of the London Local Authorities Act 2007, is largely unaffected by the 2009 Act provisions.
- 4.28 In cases where a London local authority has already resolved that the hostess bar category has effect in their area, they will be able to retain this category after the amendments made by the 2009 Act have been adopted and the sex encounter establishment category has been repealed, subject to the amendments made to Schedule 3 by the 2009 Act. Where London local authorities have not adopted the sexual entertainment venue provisions, it will still be open for them to resolve to adopt the hostess bar category after the 2009 Act provisions have been adopted without having to adopt the sex encounter establishment category.

### Soliciting for Custom

- 4.29 Under Section 22 of the London Local Authorities Act 2004, as amended by Section 72 of the London Local Authorities Act 2007, it is an offence in London to solicit for custom for a sex establishment. However, paragraph 2A provides a defence if the premises concerned are licensed under Part 3 of the 2003 Act.

- 4.30 When a London local authority resolves to adopt the provisions introduced by Section 27, it will be a defence if the premises are licensed as a sexual entertainment venue under Schedule 3 of the 1982 Act or are operating lawfully under a 2003 Act licence during the transitional period at the time of the alleged offence.



## ANNEX A: GUIDE TO TRANSITIONAL PERIOD AND EXISTING OPERATORS

### Appointed Days

#### 1st Appointed Day

The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

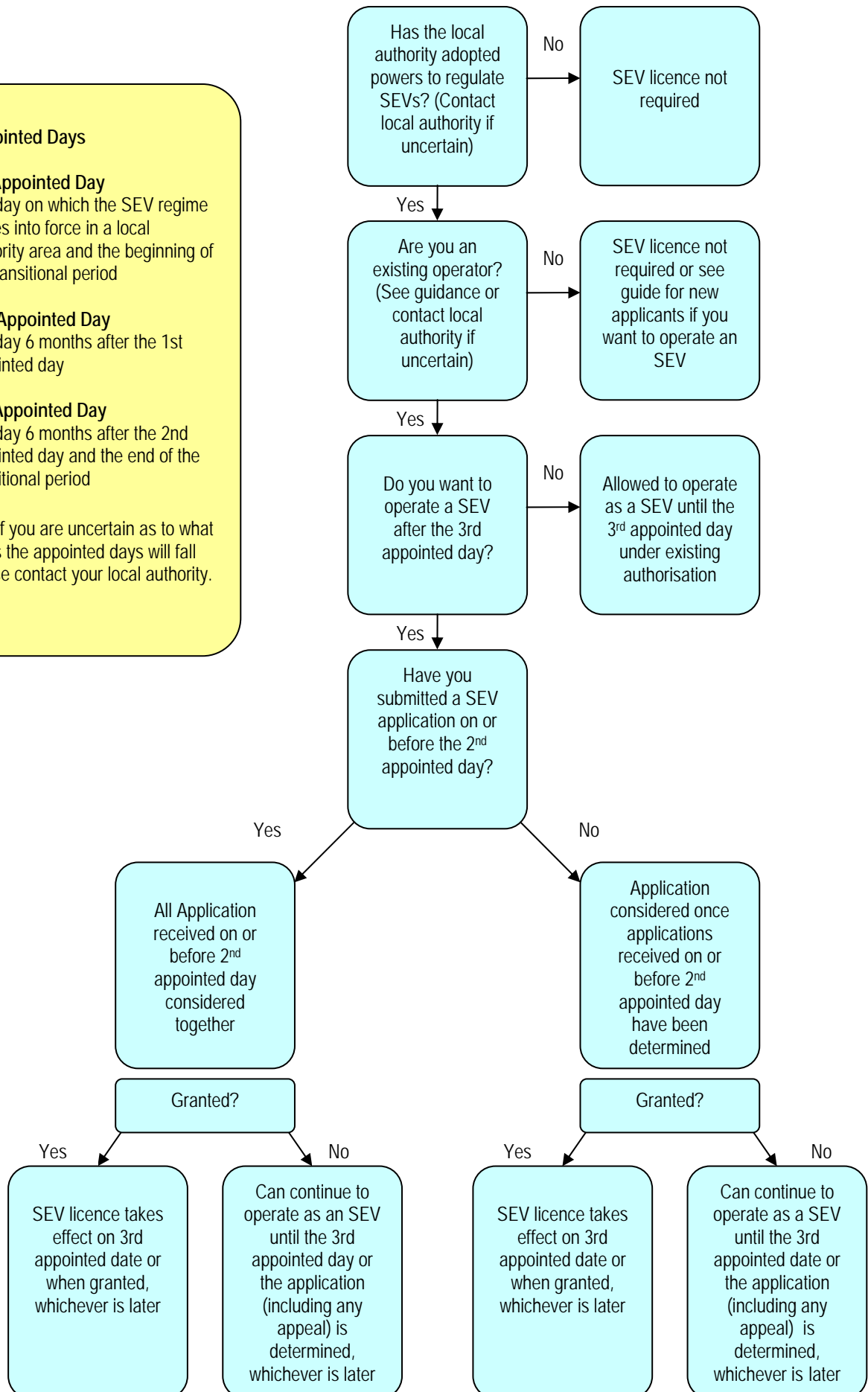
#### 2nd Appointed Day

The day 6 months after the 1st appointed day

#### 3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period

**NB:** If you are uncertain as to what dates the appointed days will fall please contact your local authority.



## ANNEX B: GUIDE TO TRANSITIONAL PERIOD AND NEW APPLICANTS

### Appointed Days

#### 1st Appointed Day

The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

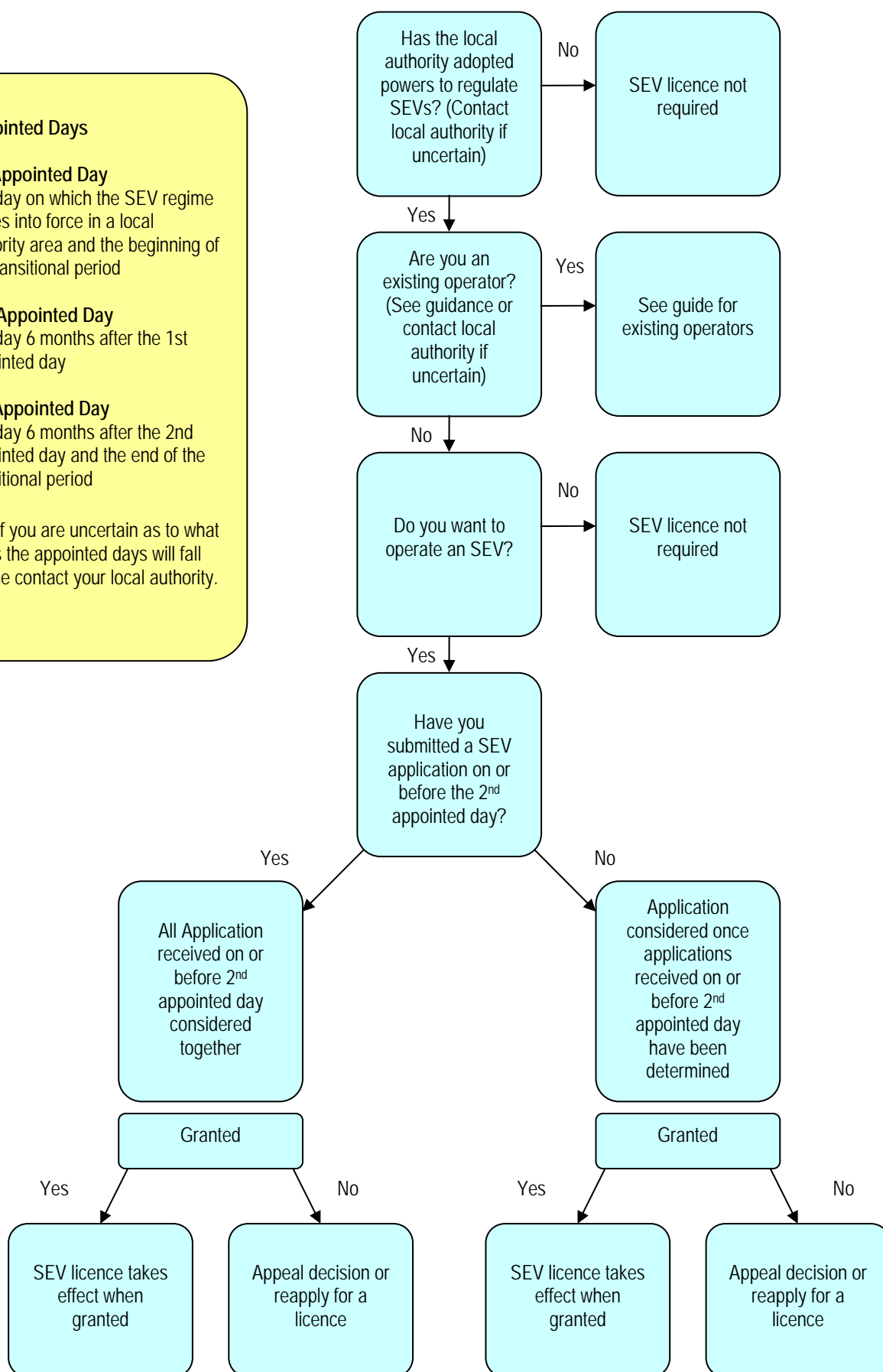
#### 2nd Appointed Day

The day 6 months after the 1st appointed day

#### 3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period

**NB:** If you are uncertain as to what dates the appointed days will fall please contact your local authority.



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## Local Government (Miscellaneous Provisions) Act 1982

### Notice of Application for a renewal for the Sex Establishment Licence

We, Wizard Sleeve Bars (Essex) Limited hereby make application for renewal to the Sexual Entertainment Venue Licence in respect of Entice, Unit 3, Warrior House, 42-82 Southchurch Road, Southend, SS1 2LZ. Details of the Renewal are as follows: For striptease, table dance, pole dance, lap dance and entertainment of a like kind on the same conditions as already attached to the licence. Any person may make representations to the Licensing Authority (Southend-on-Sea Borough Council). All such representations shall be made in writing, on or before 30th August 2022. Representations should be sent to the Licensing Authority, Department of Enterprise, Tourism and the Environment, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend-on-Sea, Essex SS2 6ZG or by e-mail to [licact2003@southend.gov.uk](mailto:licact2003@southend.gov.uk). A record of the application, and the statutory register of the Licensing Authority, may be inspected (by appointment only) at the Council's office address given above, between 8.30am and 4.45pm on Mondays to Fridays or on the Council website [www.southend.gov.uk/licensing](https://www.southend.gov.uk/licensing). It is an offence to make a false statement in connection with an application, and the maximum fine for which a person is liable on summary conviction is level 5 on the standard scale (currently unlimited). Dated 3rd August 2022

Keystone Law  
48 Chancery Lane,  
London WC2A 1JF

Goods Vehicle Operator's Licence  
RJD Recovery Ltd of 2A Queensmere, Benfleet, SS7 3XR is applying to use Sheepcotes Farm, Lower Road, Hockley, SS5 6AN as an operating centre for 4 vehicles and 1 trailer.

Owners or occupiers of land (including buildings) near the operating centre who believe that their use or enjoyment of that land would be affected, should make written representations to the Traffic Commissioner at Hillcrest House, 386 Harehills Lane, Leeds, LS9 6NF stating their reasons within 21 days of this notice.

Representers must at the same time send a copy of their representation to the applicant at the address given at the top of this notice. A guide to making representations is available from the traffic commissioner's office.

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## ALCOHOL & Licensing

### LICENSING ACT 2003

#### Application for a Premises Licence

We, Jigger Cocktails Ltd, hereby make an application for a Premises Licence in respect of Jigger Cocktails Unit 2, Rear of 55 Comet Way, Southend, SS2 6GD.

The relevant licensable activity which it is proposed to be carried on is the supply of alcohol for consumption off the premises, between 00.00 and 23.59 daily to service pre-ordered internet delivery operations.

Responsible authorities or any person may make representations to the Licensing Authority (Southend-on-Sea Borough Council). All such representations shall be made in writing, by 22nd August 2022.

Representations should be sent to The Licensing Authority, Southend-on-Sea City, Council, Civic Centre, Victoria Avenue, Southend-on-Sea, Essex SS2 6ZG or emailed to [licact2003@southend.gov.uk](mailto:licact2003@southend.gov.uk)

A record of the application, and the statutory register of the Licensing Authority, may be inspected at the Council's office address given above, between 10.00

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