

Licensing (General) Sub-Committee

Monday, 12th October, 2020
at 10.00 am

PLEASE NOTE TIME OF MEETING

Virtual Meetings - Virtual meeting

This meeting is open to the public

Members

Councillor B Harris
Councillor McEwing
Councillor Renyard
Councillor Bunday
Councillor G Galton

Contacts

Democratic Support Officer

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PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licences, permits and forms of consent (other than those for which the Council is responsible under the Licensing Act 2003), including

- Hackney carriage and private hire drivers, vehicles and operators
- Street trading
- Sex establishments

Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest with the consent of the Chair.

Southampton: Corporate Plan 2020-2025 sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

Smoking policy –

The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones:- Please switch your mobile telephones to silent whilst in the meeting.

Use of Social Media:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

Fire Procedure – in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access – access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year 2020/21

Meetings of the Committee are held as and when required.

CONDUCT OF MEETING

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

CONDUCT OF MEETING

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or

b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

1 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)

To note any changes in the membership of the Sub-Committee made in accordance with Council Procedure Rule 4.3.

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

3 STATEMENT FROM THE CHAIR

4 EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

5 APPLICATION FOR A RENEWAL OF A SEXUAL ENTERTAINMENT (SEV) LICENCE - BLACK DIAMOND, BASEMENT, 35 LONDON ROAD, SOUTHAMPTON. SO15 2AD. (Pages 1 - 90)

Application for renewal of a sexual entertainment licence for Black Diamond, Basement, 35 London Road, Southampton. SO15 2AD

Friday, 2 October 2020

Executive Director Communities, Culture & Homes

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Agenda Item 5

DECISION-MAKER:	LICENSING (GENERAL) SUB - COMMITTEE		
SUBJECT:	APPLICATION FOR RENEWAL OF A SEXUAL ENTERTAINMENT VENUE (SEV) LICENCE – FOR BLACK DIAMOND, BASEMENT, 35 LONDON ROAD, SOUTHAMPTON. SO15 2AD.		
DATE OF DECISION:	MONDAY 12th OCTOBER 2020 – 1000 HOURS		
REPORT OF:	SERVICE DIRECTOR – COMMUNITIES, CULTURE AND HOMES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Ian McGuinness	Tel: 023 8083 4231
	E-mail:	ian.mcguinness@southampton.gov.uk	
Licensing Manager	Name:	Phil Bates	Tel: 023 8083 3523
	E-mail:	Phil.bates@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY		
N/A		
BRIEF SUMMARY		
<p>The Licensing (General) Sub-Committee is requested to determine the application for the renewal of a Sexual Entertainment Venue (SEV) Licence from Southampton Clubs Limited in respect of Black Diamond, Basement, 35 London Road, Southampton, SO15 2AD. This matter has been slightly delayed due to Covid 19, however the premises is not been trading at this time.</p>		
RECOMMENDATIONS:		
1.	(i)	For the Sub-Committee to consider and determine the application for the renewal of the Sexual Entertainment licence in respect of Basement, 35 London Road, Southampton, SO15 2AD.
REASONS FOR REPORT RECOMMENDATIONS		
2.	The determination of applications for renewal of sexual entertainment licences is not delegated to officers if representation is received, therefore it is for the sub-committee to consider and determine the application.	
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
3.	None	
DETAIL (Including consultation carried out)		
4.	The Council originally adopted Schedule 3 of the 1982 Act in so far as they related to sex shops and sex cinemas in 1983 and readopted them with effect from 3 rd July 1995.	
5.	The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 with effect from 6 th April 2010, by introducing a new category of sex establishment called Sexual entertainment	

	venues (SEVs) enabling local licensing authorities to adopt provisions for the regulation of lap dancing clubs and similar venues under Schedule 3 of the 1982 Act. Previously the power was limited to sex shops and sex cinemas. On 11th July 2012, Council resolved to adopt the provisions of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 which relate to the licensing of SEVs.
6.	Southampton Clubs Limited has held a sexual entertainment venue (SEV) licence in Southampton since 28 th August 2019 following a new application issued by the sub - committee, with the licence to be renewed annually. As of 16 th July 2020, Southampton Clubs Limited operate another Sexual Entertainment Venue in Reading.
7.	On 16 th July 2020 an application was made by Southampton Clubs Limited to renew the Sexual Entertainment Venue licence in respect of Basement, 35 London Road, Southampton, SO15 2AD. A copy of the application is attached as Appendix 1 .
8.	In summary, this application is to renew the Sexual Entertainment Venue licence. The Licence Holder has not been trading at the premises as yet. A copy of the current SEV licence is attached as Appendix 2 .
9.	A notice was displayed at the premises throughout the consultation period. A notice was also published in a local newspaper. A copy of the application was served on Hampshire Constabulary Force Licensing Team.
10.	The Hampshire Constabulary Force Licensing Team have not responded to this application.
11.	The Sex Establishment licence held by Southampton Clubs Limited is renewed annually. The current licence expired on the 28 th August 2020. The new application had been granted following one representation to the application in 2019. A copy of the decision notice is attached as Appendix 3 .
12.	Licences are granted for a period of no more than one year, but may be cancelled at the request of the licence holder or revoked by the licensing authority at any time.
13.	The authority may; <ul style="list-style-type: none"> • Grant the application; or • Make such variations as they think fit; or • Refuse the application.
14.	Any person objecting to an application for the renewal of a Sexual Entertainment Venue (SEV) licence is required to give notice of their objection in writing to the local authority, not later than 28 days after the date of the application. One public objection was received in relation to this application within the 28 day consultation period. This is attached as Appendix 4 .
15.	The Act does not provide objectors with an explicit provision to be heard in person by the Sub-Committee. However, those persons from whom valid objections have been received have been advised of the date and time of the meeting and have also been advised that they may only address the meeting at the invitation of the Sub-Committee.
16.	A licence must not be granted: <p>(a) to a person under the age of 18;</p>

	<p>(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;</p> <p>(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</p> <p>(d) to a body corporate which is not incorporated in an EEA State; or</p> <p>(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.</p>
17.	<p>A licence may be refused by the Sub-Committee where:</p> <p>(a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;</p> <p>(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;</p> <p>(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;</p> <p>(d) that the grant or renewal of the licence would be inappropriate, having regard—</p> <ul style="list-style-type: none"> (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.
18.	<p>A decision to refuse a licence must be relevant to one or more of the above grounds.</p>
19.	<p>It is considered advisable to merely deal with this application on its merits and not to embark on an additional exercise of determining a precise “relevant locality” and an appropriate number of establishments in it. Such an exercise is only recommended if after having regard to the area generally if it is felt that the number and / or proximity of premises may be inappropriate.</p>
20.	<p>SEV licences can be granted for a maximum of one year, or for such shorter periods specified in the licence as the Sub-Committee may think fit.</p>
21.	<p>If the Sub-Committee determines to grant a licence it has power to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual premises concerned or standard conditions applicable to all sex establishments, or particular types of sex establishments.</p>

	<p>Examples of the matters that standard conditions may address can include, but are not restricted to:</p> <ul style="list-style-type: none"> • 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. <p>If such standard conditions are introduced by the local authority, they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.</p>
22.	<p>Guidance issued by the Home Office (a copy of which is attached as Appendix 5) states;</p> <ul style="list-style-type: none"> • 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. • 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. <p>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.</p>
23.	A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as Appendix 6 .
24.	A copy of the Sex Establishment Licensing Policy is attached as Appendix 7 .
25.	A copy of Current Licensing Act 2003 premises licence is attached as Appendix 8 .
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
26.	There are no financial implications.
<u>Property/Other</u>	
27.	Not applicable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
28.	<p>Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.</p> <p>A licence must not be granted:</p> <p>(a) to a person under the age of 18;</p>

	<p>(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;</p> <p>(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</p> <p>(d) to a body corporate which is not incorporated in an EEA State; or</p> <p>(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.</p>
29.	<p>If the Sub-Committee determines to grant a renewal application, it has power to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual premises concerned or standard conditions applicable to all sex establishments, or particular types of sex establishments.</p> <p>Examples of the matters that standard conditions may address can include, but are not restricted to:</p> <ul style="list-style-type: none"> • 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. <p>If such standard conditions are introduced by the local authority, they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.</p>
<u>Other Legal Implications:</u>	
30.	<p>CRIME AND DISORDER ACT 1998</p> <p>Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.</p>
31.	<p>HUMAN RIGHTS ACT 1998</p> <p>The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.</p>
32.	<p>EQUALITY ACT 2010</p> <p>Section 149 of the Equality Act 2010 requires the Council to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act. It also requires the Council to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This means having due regard to the need to removing or</p>

	minimising disadvantages suffered, taking steps to meet the needs of persons, encouraging persons to participate in public life, tackling prejudice and promoting understanding. The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.
33.	RISK MANAGEMENT IMPLICATIONS The risk is assessed as low. There are no finance or service delivery implications. Failure to implement the appropriate conditions could impact on reputational damage.
POLICY FRAMEWORK IMPLICATIONS	
34.	The decision to determine the application in the manner set out in this report is not contrary to the council's policy framework.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	N/A
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Application for the renewal of SEV licence made in respect of Black Diamond, Basement, 35 London Road, Southampton. SO15 2AD.
2.	A copy of the current Sexual Entertainment licence.
3.	A copy of the decision notice of new application hearing 28/08/2019
4.	Public representation
5.	Home Office Guidance
6.	Procedure for hearing the application.
7.	Sex Establishment Licensing Policy
8.	Current Licensing Act 2003 premises licence
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
Privacy Impact Assessment	
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out?	No
Other Background Documents	
Equality Impact Assessment and Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule

		12A allowing document to be Exempt/Confidential (if applicable)
1.	None	

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Application for a Sex Establishment Licence

I/We hereby apply for the RENEWAL of a Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1983 as follows:

1.	General information (all applicants must complete this section)			
	<p>What type of licence are you applying for? A sex shop licence <input type="checkbox"/> A sex cinema licence <input type="checkbox"/> A sexual entertainment venue licence? <input checked="" type="checkbox"/></p> <p>Are you applying as: (please tick): An individual <input type="checkbox"/> A registered company <input type="checkbox"/> A partnership <input type="checkbox"/></p> <p>Please state your trading name:</p> <p>Is this application for: (please tick): Grant of a new licence <input type="checkbox"/> renewal <input checked="" type="checkbox"/> variation <input type="checkbox"/> or transfer <input type="checkbox"/> of an existing licence? If renewal, variation or transfer, please provide the existing licence number: 2019/03785/19SEXE</p>			
THE APPLICANT				
2.	Application by an Individual (complete this section only if the application is by an individual)			
	<p>Title (please tick): Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other <input type="checkbox"/> (please state):</p> <p>Surname: _____ Forenames: _____</p> <p>Maiden name or any other surnames you have been known by:</p> <p>Date of birth: Residential address: Postcode: Position/Role in the business:</p>			
<table border="1" style="margin-left: auto; margin-right: auto; padding: 10px;"> <tr><td style="text-align: center;">Received On</td></tr> <tr><td style="text-align: center; font-size: 1.2em;">16 JUL 2020</td></tr> <tr><td style="text-align: center;">Southampton & Eastleigh Licensing Partnership</td></tr> </table>		Received On	16 JUL 2020	Southampton & Eastleigh Licensing Partnership
Received On				
16 JUL 2020				
Southampton & Eastleigh Licensing Partnership				
3.	Application by a Partnership (complete this section only if the application is by a partnership)			
	<p>You must supply information in respect of every partner – where there are more than two partners then please use a continuation sheet</p> <p>Title (please tick): Mr <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other (please state):</p> <p>Surname: _____ Forenames: _____</p> <p>Maiden name or any other surnames you have been known by:</p> <p>Date of birth: Residential address: Postcode:</p>			
	<p>Title (please tick): Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other <input type="checkbox"/> (please state):</p> <p>Surname: _____ Forenames: _____</p> <p>Maiden name or any other surnames you have been known by:</p> <p>Date of birth:</p>			

... (this section only if the application is by a registered company)

Registered company name: SOUTHAMPTON CLUBS LTD

Registration number: 1186698

Address of the company's registered office: 16 ALIE STREET, LONDON

Postcode: E1 8DA

Please provide the following details for every director, shadow director and the company secretary – where necessary please use a continuation sheet.

Role: DIRECTOR

Title (please tick):

Mr. Mrs. Miss Ms. Other (please state):

Surname: LINES Forenames: LAUREN

Maiden name or any other surnames you have been known by:

Date of birth: 24/10/1994

Residential address: 50 HARLEQUIN HOUSE, PADWORTH AVENUE, READING

Postcode: RG2 9FU

Role:

Title (please tick):

Mr. Mrs. Miss Ms. Other (please state):

Surname: Forenames:

Maiden name or any other surnames you have been known by:

Date of birth:

Residential address:

Postcode:

5. Contact Details
(all applicants must complete this section)

We will use your business address to correspond with you unless you indicate we should use your Residential address

Business Address:
Postcode:

Telephone nos.
Daytime:
Evening:
Mobile:

Residential address:

Email address:
Website address:

Please use my Residential address for correspondence Yes No

If you have appointed a legal advisor or other agent to act for you, please give their details and reference number here:

Name:
Address:
Post code
Phone number:
Email address:
Reference no.:

6.	Criminal Convictions (all applicants must complete this section)	
	<p>Have you, any partners in the business, any directors of the company, or any other person mentioned in this application, ever been convicted of an offence or been the subject of any enforcement action in relation to a sex establishment?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (please tick)</p> <p>If "yes" you must provide details for each conviction/enforcement action, the date of the conviction/enforcement action, the name and location of the convicting court, offence of which you were convicted/the nature of the enforcement action and the sentence/penalty imposed:</p> <p>Berkshire Magistrates' Court DR10: Driving or attempting to drive with alcohol level above limit Fine: £520.00 Period: 18 months Start date: 8 May 2017 End date: 7 Nov 2018 Conviction date: 8 May 2017 Removal date: 8 May 2028</p> <p>(where necessary please use a continuation sheet)</p>	
7.	Have any of the applicants previously been refused a sex establishment licence or had such a licence revoked? If so, give full details on a separate sheet	NO
8.	If the applicant is a company, is the applicant a wholly owned subsidiary of another company or corporate body? If so, give full details, including full names and residential address of each director on a separate sheet	NO
9.	If the applicant is a company, give the full names and residential addresses of each person who has a shareholding of more than 10% in the company on a separate sheet	<input checked="" type="checkbox"/>
10.	Will the business for which the sex establishment licence is sought be carried on for the benefit of any person other than the applicant? If so, give full details on a separate sheet. include company names, registration numbers, full names and residential address of each director or other person to benefit; include all persons with shareholdings greater than 10%	NO
11.	Does the applicant operate any other sex establishments, whether licensed or not? If so, please state the name, address and type of sex establishment (sex shop/sex cinema/sexual entertainment venue) on a separate sheet	Yes

THE PREMISES, VEHICLE, VESSEL OR STALL	
12.	Is the application in respect of: a premises <input checked="" type="checkbox"/> a vehicle <input type="checkbox"/> a vessel <input type="checkbox"/> a stall <input type="checkbox"/>
	If the application is in respect of a vehicle, vessel or stall, where is it proposed that it shall be used?
13.	If the application is in respect of a premises, give the full postal address: 35-41 LONDON ROAD, SOUTHAMPTON, Postcode: SO15 2AD
14.	Is the whole of the premises to be used as a sex establishment? Yes If not, give a description of the use of the remainder of the premises: The names of those responsible for managing the remainder of the premises:
15.	State the nature of the applicant's interest in the premises, vehicle, vessel or stall (e.g. freehold owner, lessee, sub-lessee etc.) LESSEE
16.	If the applicant has tenure of the premises other than as freeholder, state: The name and address of the landlord: ELENORE PROPERTIES, THIRD FLOOR 12 WINDSOR STREET, LONDON, W1U 2RU The amount of the annual rental; £ _____ The length of the unexpired term _____ The length of notice required to terminate the tenancy _____ months
17.	What is the current use of the premises? NIGHTCLUB/CAFE
18.	Is there planning permission for use of the premises, vehicle, vessel or stall as a sex establishment? NO If yes, give the date of that permission
19.	If there is no planning permission for use of the premises, vehicle, vessel or stall as a sex establishment, give full details as to whether and why the use of the premises is a lawful use: APPLICATION HAS BEEN SUBMITTED, AWAITING RESPONSE.
20.	Are the premises, vehicle, vessel or stall licensed now or intended to be licensed under any other legislation e.g. the Licensing Act 2003? Yes If so, give the nature and reference number of each licence: PREMESIS LICENCE, 2019/03677/01SPRV
21.	Is customer access to the premises, vehicle, vessel or stall: Directly from the street? Yes From other premises? NO If from other premises, give full details below:
22.	Are all points of customer access to be supervised at all times that the premises are open for business? Yes
23.	Give full details of door control and supervision of access to the premises, including whether those controlling access are licensed by the SIA: AS STATED ON ORIGINAL LICENSE

24.	Give details of the measures proposed to ensure that any person entering the premises is over 18 years of age, including what forms of ID will be accepted: AS STATED ON ORIGINAL LICENSE
25.	Give full details of any proposed exterior signage, advertising, window displays etc. at the premises - include photographs, illustrations etc.: AS STATED ON ORIGINAL LICENSE
26.	Give full details of the measures to be taken to comply with the Indecent Displays (Control) Act 1981, as amended, including the means by which persons outside the premises will be prevented from seeing the interior: AS STATED ON ORIGINAL LICENSE
27.	If the premises are to be used as a sexual entertainment venue, provide full details of:
(a)	the type and nature of the entertainment to be provided: AS STATED ON ORIGINAL LICENSE
(b)	arrangements for the separation of performers and audience: AS STATED ON ORIGINAL LICENSE
(c)	what contact, if any is to be permitted between performers and audience will be permitted: AS STATED ON ORIGINAL LICENSE
(d)	where sexual entertainment will take place (e.g. open areas, private booths or both): AS STATED ON ORIGINAL LICENSE
(e)	What measures will be put in place to supervise sexual entertainment, the conduct of performers and audience (e.g. security staff, CCTV, etc). Enclose copies of any codes of conduct or similar documents and clearly indicate the sanctions which will be taken by the management of the venue for any breaches of them: AS STATED ON ORIGINAL LICENSE
(f)	What measures are in place to ensure compliance with the law by the business and persons employed in the venue in whatever capacity, in particular in connection with human trafficking and modern slavery? AS STATED ON ORIGINAL LICENSE
TYPE OF APPLICATION	
28.	Renewal If the application is for renewal of an existing licence, have there been any changes in the business since the last grant of a licence? NO If Yes, give full information here:
29.	Variation If variation of an existing licence is sought, give full details here: Ensure that you include plans and other documents clearly showing what is proposed and indicating which existing licence conditions it is proposed should be varied.
30.	Transfer If the application is for transfer of an existing licence, do you enclose the signed consent of the previous licence holder to the transfer?
31.	Other information in support of the application Use this part of the application to set out any additional information which you wish the licensing authority to take into account when considering the application:

MANAGEMENT

32. Give details of the person who will be responsible for the day to day management of the business ("the manager"):

Full name: VICTOR MIHALACHE

Residential address:

Postcode:

Date of birth:

33. Will the manager be based at the premises, vehicle, vessel or stall and will the management of the business be that person's sole and exclusive occupation? Yes

34. Give details of the arrangements for the day to day management of the premises in the absence of the manager:

include full names, residential addresses and dates of birth of such persons.

35. On what days and at what times will the business will be open:

Day	From	To	Give details of any proposed exceptions to the hours given
(use 24 hour clock)			
Monday	21:00	05:00	
Tuesday	21:00	05:00	
Wednesday	21:00	05:00	
Thursday	21:00	05:00	
Friday	21:00	05:00	
Saturday	21:00	05:00	
Sunday	21:00	05:00	

36. I enclose detailed scale plans, colour photographs and designs illustrating the interior and exterior of the premises, vehicle, vessel or stall giving, in particular, details of the proposals in respect of exterior signage and advertising, including the nature, content and size of signage and any images to be used

(this will not be necessary in case of an application for transfer or renewal where no changes have taken place since the last grant of a licence.

37. Payment

(all applicants must complete this section)

I will pay the application fee for a sex establishment licence by:

Debit or credit card Cheque Cash (please tick)

38. Checklist

(all applicants must complete this section)

The form is fully completed, signed and dated by each individual, partner or the company secretary

The fee is enclosed

Continuation sheets, clearly marked to indicate the question numbers, are enclosed

Plans and other documents are enclosed

39.	<p>Declaration (all applicants must complete this section)</p> <p>The information contained in this form is true and accurate to the best of my knowledge and belief. I understand that if I make a false statement which I know to be false in any material respect or which I do not believe to be true in connection with an application for the grant of a sex establishment licence I will be guilty of an offence and liable on summary conviction to an unlimited fine.</p> <p>I understand that Southampton City Council may consult other agencies about my suitability to be granted a sex establishment licence, and that those other agencies may include other local authorities and the police.</p> <p>I understand that the purpose of the sharing of this data is to form a full assessment of my suitability to be granted a sex establishment licence. I also understand that the sharing of information about me may extend to sensitive personal data, such as data about any previous criminal offences. Some details will also be displayed in the council's public register of licences.</p> <p>I understand that the licensing authority may be required by law to disclose, from time to time, further information relating to applications and licences to the appropriate authorities for the purposes of law enforcement and the prevention of fraud.</p> <p>More detailed information about the Council's handling of your personal data can be found in its privacy policy, available online (http://www.southampton.gov.uk/privacy), or on request.</p> <p>An individual applicant (section 2) or all partners (section 3) or the company secretary (section 4) must complete this section</p> <p>Signed: _____ Dated 14/07/2020 Name (please print) LAUREN LINES Capacity of signatory: <i>Company Director</i></p> <p>Signed: _____ Dated _____ Name (please print) _____ Capacity of signatory: _____</p> <p>Signed: _____ Dated _____ Name (please print) _____ Capacity of signatory: _____</p> <p>Signed: _____ Dated _____ Name (please print) _____ Capacity of signatory: _____</p>
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Shareholder Information

Mr Dean Yeoman

Other Sex Establishments Information

Sexual Entertainment Venue

Black Diamond Gentlemen's Club

108 Friar Street

Reading

RG1 1EP

Application for the RENEWAL Of a Sex Establishment Licence



Please read the following notes before completing this form

- A** All questions must be answered except where otherwise stated. If relevant questions are not answered, the application form will be rejected and returned to the applicant for amendment.
- B** Any person who, in connection with an application for the grant, renewal or transfer of a sex establishment licence makes a false statement which he knows to be false in any material respect or which he does not believe to be true is guilty of an offence and liable on summary conviction to an unlimited fine.
- C** If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and in black ink. Use additional sheets if necessary.
- D** When fully completed, a copy of this form, plans and other accompanying documents must be sent to the Chief Officer of Police:

E-mail: force.licensing@hampshire.pnn.police.uk

Phone: 023 8053 3368

Post/in person: Force Licensing Team, Hampshire Constabulary, Southampton Police Office, Civic Centre, Southampton SO14 7LY

- E** Send this fully completed form, together with the fee, plans and accompanying documents to the Council's Licensing Team at the address below.

Contacting the Licensing Team:

If you require further information, you may contact the Licensing Team as follows:

Email: licensing@southampton.gov.uk

Post: Licensing Team, PO Box 1767, Southampton SO18 9LA

Phone: 023 8083 3002 (option 4)

In person: Licensing Team, Civic Centre, Southampton SO14 7LY

Payments

You must pay for your licence application before it can be accepted. We can accept payment by debit or credit card, by cheque or in cash. Please note that a subsequent failure of a cheque to clear will invalidate your application and may give rise to a criminal offence.

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Licence Number	2019/03785/19SEXE
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SEX ESTABLISHMENT LICENCE

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SECTION 2

SOUTHAMPTON CITY COUNCIL by virtue of the powers contained in section 2 and schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, hereby grants to:

Southampton Clubs Limited

of the following address:

36 Alie Street,
London.
E1 8DA

A licence to use the premises known as

Black Diamond

and situate at

**Basement
35 London Road
Southampton
SO15 2AD**

in the City of Southampton as a

SEXUAL ENTERTAINMENT VENUE

This licence has effect from 28th day of August 2019 until

27th day of August 2020

The permitted hours of this licence:

Monday	21:00 - 05:00
Tuesday	21:00 - 05:00
Wednesday	21:00 - 05:00
Thursday	21:00 - 05:00
Friday	21:00 - 05:00
Saturday	21:00 - 05:00
Sunday	21:00 - 05:00

SUBJECT TO THE FOLLOWING CONDITIONS:

1 Annex A

Standard Conditions applicable to Sex Establishments consisting of Sex Shops, Sex Cinemas or Sexual Entertainment Venues

Southampton City Council, in exercise of the powers conferred by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 hereby make the following Regulations prescribing standard conditions applicable to licences for sex establishments.

Interpretation

In these Regulations the following expressions that is to say "Sex Establishment", "Sex Shop", "Sex Cinema", "Sexual Entertainment Venue", "Sex Article", and "Vessel" shall have the meanings respectively assigned by Schedule 3 of the Act (and where amended by Section 27 of the Policing and Crime Act 2009).

In these Regulations the following expressions shall have the meanings hereby respectively assigned to them namely:

"the Act" means the Local Government (Miscellaneous Provisions) Act 1982, as amended.

"the council" means Southampton City Council and/or any authorised officer acting on behalf of the Council.

"the premises" means any premises, vehicle, vessel or stall licensed under the Act.

"licence holder" means a person who is the holder of a sex establishment licence.

"permitted hours" means the hours during which the licensed premises are permitted to be open to the public.

"licence" means a licence granted pursuant to Schedule 3 of the Act.

Part One - General Conditions

1. Management of Premises

1.1. The Licence holder, or some responsible person nominated by him and approved in writing by the council for the purpose of managing the sex establishment ("the manager"), shall have personal responsibility for and be present on the premises at all times when the premises are open to the public.

1.2. In accordance with section 14 of the 1982 Act, the Licence holder shall display, on the licensed premises in a conspicuous position, a copy of the licence and/or any special conditions attached.

1.3. The name of the person responsible for the management of the sex establishment, whether the licence holder or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.

1.4. The licence holder shall retain control over all parts of the licensed premises as set out on the approved premises plan and shall not let or part with possession of any part.

1.5. No person under the age of 18 shall be admitted to the premises and rigorous identity checks SHALL be made on any person who appears to be under the age of 18.

1.6. To ensure compliance of 1.5 above, the licence holder shall exhibit appropriate warning notices as

to the minimum age requirements on both the exterior (frontage) door and also conspicuously on the appropriate inner lobby door.

1.7. No person under the age of 18 shall be employed to work at the premises in any capacity or shall be allowed to work at the premises on a self-employed basis.

1.8. Neither the Licence holder nor any employee or agent shall tout or solicit custom for the sex establishment immediately outside or in the vicinity of the licensed premises.

1.9. Where the Licence holder is a body corporate or an unincorporated body, any change of director, or other person responsible for the management of the body is to be notified in writing to the council within 14 days of any such change. In addition, the Licence holder shall provide any details as the council may require in respect of any new director, officer or manager upon request in writing from the council.

2. Conduct of the Premises

2.1. No change from one type of sex establishment to another shall be made without the written consent of the council.

2.2. No part of the premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.

3. Premises Interior and Layout

3.1. The premises layout shall comply with deposited plans unless otherwise approved in writing by the council.

3.2. No alterations, additions or modifications to either the internal or external parts of the licensed premises shall be made without the prior written consent of the council.

3.3. External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

3.4. The premises shall be fitted with an inner entrance lobby door or partition screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises.

3.5. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

3.6. No part of the interior of the licensed premises shall be visible whatsoever to persons outside the premises.

3.7. No external advertising, words, signs, displays or illuminations shall be permitted unless previously approved by the council.

3.8. The external fabric, appearance and look of the licensed premises shall consist of materials and colours approved by the council in order to:

3.8.1 Ensure that the frontage is of a discreet nature

3.8.2 Ensure that it is appropriate to the character of the locality.

4. CCTV

4.1. A recording CCTV system shall be installed and fully operational whilst the venue is open to the public.

4.2. The recording equipment will be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and to maintain the integrity of the system.

4.3. A record will be kept of any access made to information held on the system.

4.4. The system will be serviced at twelve monthly intervals and maintained to a standard that is acceptable to the police licensing department responsible for the area. A record of service and maintenance completed shall be held for a minimum of three years at the premises.

4.5. The system clock will be checked regularly for accuracy taking account of GMT and BST.

4.6. An additional recording CCTV camera shall be installed and fully operational whilst the venue is open to the public to cover the area outside the front of the premises.

4.7. The CCTV system will have sufficient storage capacity for 31 days of good evidential quality images.

5. CCTV Access

- 5.1. Police and authorised officers of the council shall have access to data from the systems quickly and easily and therefore provision will be made for the licensee or a member of staff to have access to the secure area and also be able to operate the equipment and to supply footage in a format which can be easily viewed by police or council officers.
- 5.2. All operators will receive training from the installer when equipment is installed and this training will be cascaded down to new members of staff.
- 5.3. An operator's manual will be available to assist in replaying and exporting data.
- 5.4. The premises shall not be operated pursuant to the grant of a licence until such time as the CCTV System has been approved by the Police. The CCTV must be maintained in a satisfactory working condition and subject to police approval in order to remain operating under the licence.

6. General

- 6.1. The Licence holder shall take all reasonable precautions to ensure public safety on the premises and shall comply with any reasonable request made by the council.
- 6.2. The council may substitute, delete, vary or amend these conditions at any time.

Part Two - Additional Conditions for Premises Operating as Sexual Entertainment Venues

7. External Appearance of the Premises and Public Displays of Information

- 7.1 The grant of a licence for a Sexual Entertainment Venue shall not be deemed to convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Schedule 3 of the Act.
- 7.2 The Premises shall be maintained in good repair and condition.
- 7.3 The Licensee shall ensure that the interior of the premises where sexual entertainment is offered shall not be capable of being seen from the outside of the premises.
- 7.4 At no time shall performances be capable of being seen from outside of the premises
- 7.5 Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
- 7.6 The copy of the licence and of any Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Act shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed aforesaid shall be suitably protected and the copy of any Regulations shall be retained in a clean and legible condition.

8. Control of Entry to the Premises

- 8.1 Any individual employed on the premises to conduct a security activity (within the meaning of section paragraph 2(1) (a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority (for so long as that Authority is operative).
- 8.2 The Licensee must ensure that a sufficient number of authorised door supervisors are employed in the premises to check entrants; enforce the venue Drugs Policy, House Rules and Dancer Code of Conduct; complete the incident book as necessary and supervise customers and performers whilst sexual entertainment is provided.
- 8.3 No person under the age of 18 shall be admitted to the premises at any time that it is offering sexual entertainment and a notice to this effect shall be clearly displayed at the entrance(s) to the premises.
- 8.4 The Licensee will operate a Challenge 25 Policy whereby prospective customers who appears to be aged 25 or under will be refused admission unless they can prove that they are aged 18 or over by producing suitable photographic identification. Prominent notices must be clearly displayed to this effect at the entrance(s) to the premises.
- 8.5 Information shall be clearly displayed within the internal exit areas of the premises, reminding departing customers to behave in a responsible and appropriate way towards all persons, particularly women.
- 8.6 Prospective customers shall be informed of the House Rules.

9. Advertising

- 9.1 The Licensee shall not permit the display on the exterior of the premises of photographs or other images, excluding trade marks or logos, which are unacceptable to the Council, and which may offend public decency.
- 9.2 The Licensee shall have regard to the Advertising Standards Authority CAP Code.
- 9.3 Where the Council has given notice in writing to the Licensee objecting to any public advertisement on the grounds that, if displayed, it would offend public decency or be likely to encourage or incite crime and disorder that advertisement shall be removed or not be displayed.
10. CCTV
- 10.1 The Licensee shall ensure that CCTV is installed and maintained to the reasonable satisfaction of the Police. The equipment will be password protected and have a constant and accurate time and date generation.
- 10.2 CCTV shall be installed in any private performance areas. Such areas will also be specifically monitored.
- 10.3 The recording system will be able to capture a minimum of 4 frames per second and CCTV images shall be retained for a period of at least 28 days and made available to a police officer or authorised Council officer (subject to the Data Protection Act 1998). The said images shall be down loaded on request and a copy provided to such an officer at the earliest practicable opportunity together with any software required to enable playback.
- 10.4 Records must be made on a weekly basis and retained for at least one year to demonstrate that the CCTV system is functioning correctly and that data is being securely retained. These will be made available to a police officer or authorised Council officer on request.
- 10.5 In the event of a technical failure of the CCTV equipment the Licensee must report the failure to the Southampton Police Licensing unit.
11. Performers
- 11.1 Performers shall be aged not less than 18 years. The Licensee must maintain records of the names, addresses and dates of birth of performers including identity checks.
- 11.2 Performers must remain fully dressed in public areas and in all other areas except while performing.
- 11.3 No personal performances shall be given to customers seated at the bar or to standing customers.
- 11.4 Performers must re-dress when the performance has ended.
- 11.5 Performers must not perform a nude table dance unless in a supervised area and within sight of a floor supervisor.
- 11.6 Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card, which must be surrendered to the Licensee or their representative before leaving the premises.
- 11.7 There shall be no intentional full body contact between customers and performers during a performance except for the placing of money or tokens into the hand or garter of the performer at the beginning or conclusion of the performance.
- 11.8 Performers will stop immediately and move away from any customer who is offensive or attempts to touch them during a performance and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management.
- 11.9 No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.
- 11.10 Performers must not engage with the customer in any act of, or communication likely to lead to an act of, prostitution or solicitation.
- 11.11 The Licensee is to implement a policy for the safety of the performers when they leave the premises.
12. Customers
- 12.1 Customers must remain seated during the entire performance of a private dance.
- 12.2 Customers must remain fully dressed at all times.
- 12.3 The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic

identification cards, such as a driving licence or passport;

12.4 All persons entering the premises must supply verifiable identification details that are passed through a digital scanning and recording system such as Club Scan, Idvista or similar computerised system.

12.5 The premises shall maintain a Refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the council. The refusals log to be maintained for 12 months.

12.6 Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.

12.7 A policy of random searches of persons entering the premises shall be operated.

12.8 Any person found to be in possession of illegal drugs upon entry shall be prevented entry and, where possible, restrained until the Police can take such person into custody. Any persons found using illegal drugs on the premises shall be removed from the premises or, where possible, restrained until the Police can take such person into custody.

12.9 The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises shall not be visible to persons outside the building.

12.10 The premises shall subscribe to an approved radio system and radios shall be operational at all times the premises is open to the public.

13 External Appearance of the Premises and Public Displays of Information

13.1 The exterior of the premises shall not contain any displays or depictions of the human form, or any imagery that suggests or indicates relevant entertainment takes place at the premises, or other language stating the nature of such activities, including use of the word "nude". The condition does not prevent the use of the words "Licensed Sexual Entertainment Venue" on a single plate in characters no higher than 10 cm at the entrance to the premises.

13.2 Any external displays or advertising may only be displayed with the prior approval of the Council.

13.3 The prices for entrance and any compulsory purchases within the venue shall be clearly displayed on the exterior of the premises.

13.4 All charges for products and services shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.

13.5 Rules for customers shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.

13.6 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.

13.7 Performers may not stand in any lobby, reception or foyer areas or outside the premises entrance for the purposes of greeting customers or encouraging customers to enter the venue.

13.8 The use of cruising cars by the premises to solicit for custom and/or transport people to or from the premises is prohibited.

13.9 The use of flyers and similar promotional material for the premises is prohibited.

14 Conduct of Performers and Rules relating to performances of sexual entertainment

14.1 There shall be a written code of conduct for performers that has been agreed in writing by the Licence holder, the council and the Police.

14.2 All performers shall be required to certify their agreement to comply with the code and a record shall be kept on the premises and be made available upon request by the Police or an authorised officer of the council. The code shall include the basic criteria as set out in the Code of Conduct for Dancers included within this policy.

14.3 No changes shall be made to the Dancer's Code of Conduct without the prior written consent of the council and the Police.

14.4 The Dancer's Code of Conduct must include a statement that any dancer who does not comply with the Code of Conduct will face disciplinary proceedings.

14.5 All management and staff (including security staff) must be aware of and familiar with the content of the Dancer's Code of Conduct and shall ensure it is complied with at all times.

14.6 A copy of the Dancer's Code of Conduct shall be prominently displayed in each area of the premises where the public have access, which shall include toilet areas as well as in any area used as a changing/dressing room for dancers.

15 Code of Conduct for Customers

15.1 There shall be a written Code of Conduct for Customers that has been agreed in writing by the Licence holder, the council and the Police.

15.2 The code shall include the basic criteria as set out in the Code of Conduct for Customers included within this policy.

15.3 The Code of Conduct for Customers shall be displayed in prominent positions throughout the licensed premises so that it is visible to all patrons.

15.4 No changes shall be made to the Code of Conduct for Customers without the prior written consent of the council and the Police.

15.5 The Code of Conduct shall include a statement that any customers who fail to comply with the Code of Conduct will be required to leave the premises.

15.6 All management and staff (including security staff) must be aware of and familiar with the content of the Code of Conduct for Customers and shall ensure it is complied with at all times.

15.7 On any occasion whereby a customer breaches the Code of Conduct, such details shall be recorded in the incident log.

15.8 Any customer breaching the rules of the Code of Conduct shall be asked to leave the premises. Any customer who has previously been asked to leave the premises and again breaches the Code of Conduct shall be banned from the premises.

16 Disciplinary Procedure for Performers

16.1 The Licence holder shall ensure that a written disciplinary procedure is in force so as to take appropriate action against performers who breach the Code of Conduct and that a copy of the procedure is provided to each performer who works at the premises.

16.2 All performers shall sign an acknowledgement that they have received a written copy of the disciplinary procedure and have read and understood its contents.

16.3 Any disciplinary procedure shall NOT make any provision for financial penalties against performers who breach the disciplinary procedure. Any sanctions shall be limited to verbal or written warnings, suspension or revocation of the performer's right to dance at the premises.

17 The Protection of Performers and the Prevention of Crime on the Premises

17.1 Performers shall be provided with secure and private changing facilities.

17.2 All entrances to private areas to which members of the public are not permitted access shall have clear signage stating that access is restricted.

17.3 Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.

17.4 The Licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work.

17.5 Private booths must not be fully enclosed, however use of flame retardant see-through curtain is permitted. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.

17.6 There must be a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place.

17.7 Any private booths shall be fitted with a panic button or security alarm.

18 Record Keeping and Management

18.1 All performers shall be required to provide valid identification prior to first employment at the premises. Acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or national ID card.

18.2 All performers and staff shall be eligible to work in the UK and proof of eligibility records shall be kept on the premises. Management shall ensure that such records are regularly checked to ensure compliance.

18.3 Employment records for performers and staff shall be kept for a minimum of 6 months following the cessation of their employment.

18.4 Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council. All fees and charges for performers

shall be stated in writing and prominently displayed within the changing area.

18.5 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.

19 Dress Code

19.1 The premises shall operate a dress code for customers to the satisfaction of the Police.

Annex B

Sexual Entertainment Venues - Code of Conduct for Dancers

The Dancer's Code of Conduct shall include the following conditions as a minimum standard:

There shall be no intentional physical contact between performers and customers at any time, before, during or after the performance, with the exception of leading a customer by the hand to, or from, an area permitted for performances of sexual entertainment in advance of, or following, a performance.

The performer may not simulate any sexual act during a performance.

Performers must not use any inappropriate, lewd, suggestive or sexually graphic language in any public or performance areas of the premises.

Performers must not touch the breasts or genitalia of another performer, at any time as part of a performance.

There shall be no use of sex articles (as defined by paragraph 4(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982) at any time.

There shall be no nudity by performers in public areas of the premises, unless the Council has agreed in writing that area may be used for performances of sexual entertainment.

Performers must fully dress (i.e. no nudity) at the end of each performance.

Performances of sexual entertainment may only take place in designated areas of the premises as agreed in writing by the Council.

There shall be no photography permitted by customers on the premises.

Customers must remain seated for the duration of a performance.

Performers shall not arrange to meet, or have further contact with, customers outside of the premises.

Dancers shall not perform if under the influence of alcohol or drugs.

All dancers shall comply with this Code of Conduct. Any failure to adhere to the rules set out in Code shall result in the dancer becoming subject to the consideration of disciplinary action as set out in the Disciplinary Procedure.

Annex C

Sexual Entertainment Venues - Code of Conduct for Customers

The Customer's Code of Conduct shall include the following conditions as a minimum standard:

Customers may not touch dancers during a performance.

Customers may not make lewd or offensive comments to performers.

Customers must not harass or intimidate performers.

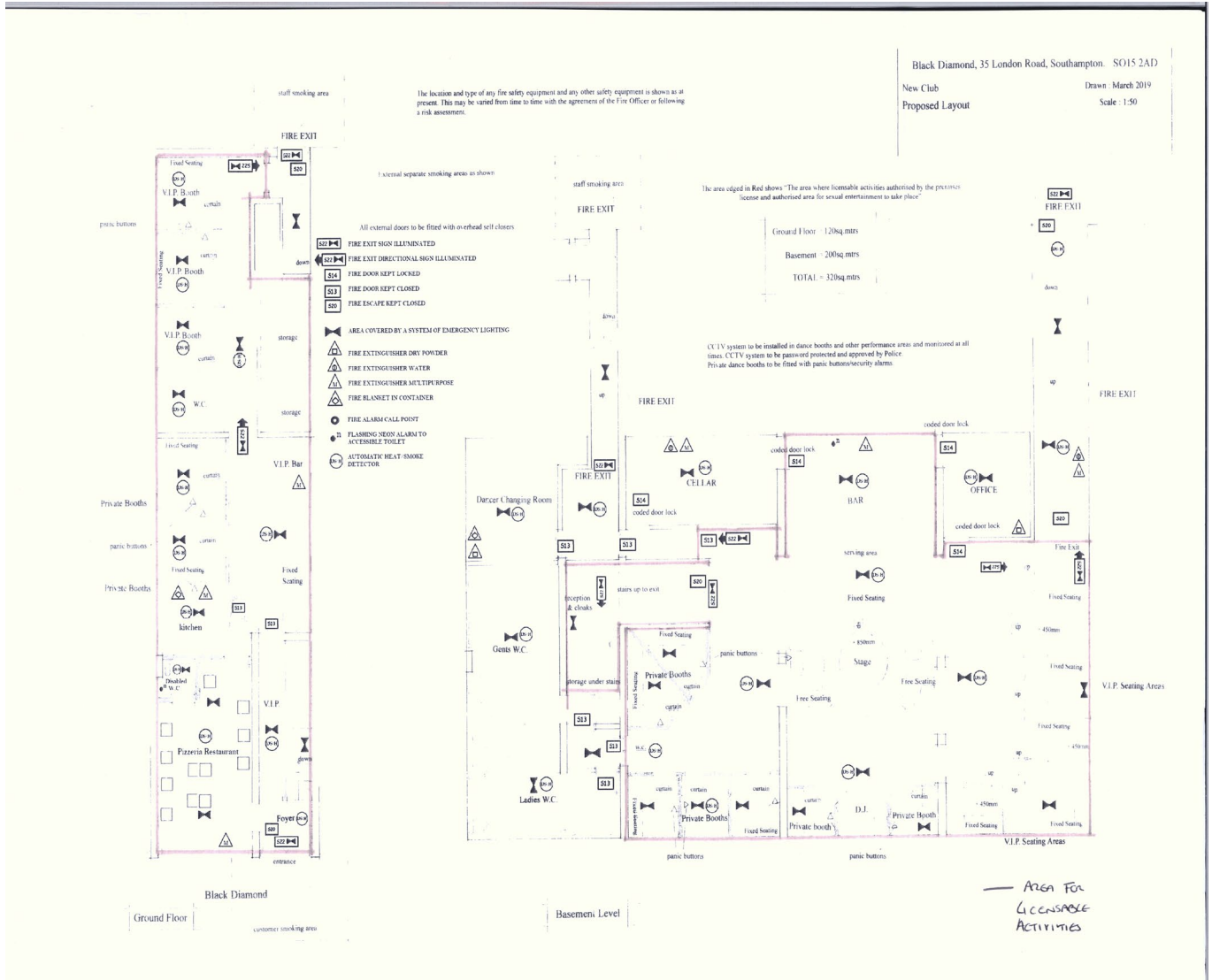
Customers must not ask dancers to perform any sexual favour.

Customers may not perform acts of masturbation or indulge in other sexual behaviour.

Any customer failing to comply with this Code of Conduct will be asked to leave the premises and may face a time-limited or permanent ban from attending the premises.

Dated this 6th day of September 2019

Annex 1 – Plans



Plan not reproduced to scale.

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**APPLICATION FOR GRANT OF A SEXUAL ENTERTAINMENT VENUE (SEV)
LICENCE – BLACK DIAMOND, BASEMENT, 35 LONDON ROAD,
SOUTHAMPTON SO15 2AD**

The Sub-Committee has considered very carefully the application for the a sexual entertainment venue (SEV) licence in respect of Black Diamond, Basement, 35 London Road, Southampton SO15 2AD.

The Sub-Committee has given due regard to the Local Government (Miscellaneous Provisions) Act 1982, statutory guidance, its own policy where relevant, the Crime and Disorder Act 1998, the Public Sector Equality Duty under section 149 Equality Act 2010 and Human Rights legislation.

The Sub-Committee considered representations both written and given orally on 28 August 2019.

The Licensing Manager, the applicant's solicitor together with a Director of the applicant company and her husband and the proposed manager for the premises were present and with the consent of the Chair addressed the meeting. A local objector also asked to speak and with the consent of the Chair addressed the meeting.

The Sub-Committee noted that Hampshire Constabulary Licensing Team had not objected to the application.

RESOLVED

- (i) That the application for the grant of the Sexual Entertainment Venue licence be approved subject to (a) a change to the requested opening hours and (b) non-agreement to the amendments to the Council's standard conditions requested in the application, as below.
- Opening hours to be from 2100 hours to 0500 hours – Monday to Sunday;
 - Standard Condition 1.8 to remain in full
 - Standard Condition 14.5 to remain in full
 - Standard Condition 15.4 to remain in full
 - Standard Condition 15.5 to remain in full with the addition of "The refusals log to be maintained for 12 months"
 - Standard Condition 20.5 to remain in full with the addition of "However, use of flame retardant see-through curtain is permitted" to be added after "Private booths must not be fully enclosed"
 - Standard Condition 20.7 to remain in full.

Reasons

The Sub-Committee carefully considered both the representations on behalf of the applicant and those of the objectors. The Sub-Committee determined that the applicant had provided sufficient information and satisfactory responses to the issues

raised by the Sub-Committee and objectors including equality issues so that the licence could properly be granted.

However the Sub-Committee determined that the requested opening hours of 1600 hours to 0600 hours 7 days a week were too long and further that the 1600 hours start time was too early taking into account information provided by the applicant regarding their other venues.

Regarding the requests for disapplication and amendments to standard conditions, the Sub-Committee's reasoning was as follows:

For Condition 1.8 It was considered to be inappropriate and unacceptable for there to be any touting immediately outside or in the vicinity of the premises.

For Condition 14.5 It was considered necessary for reasons of safety of dancers to keep this condition unaltered.

For Condition 15.4 It was considered to be appropriate to keep this condition unaltered for reasons of safety and noting that nightclubs are moving towards this system and it was felt to be appropriate for a Sexual Entertainment Venue to do the same.

For Condition 15.5 It was determined that this condition should remain the same but with the addition of a period of retention.

For Condition 20.5 It was determined that a see through curtain could be permitted within the existing condition.

For Condition 20.7 It was determined necessary for reasons of safety.

Objection to Renewal of SEV at Kellys 35- 41 London Road 2020/02208/19/SEXE
The hours to serve alcohol /use the SEV until 05.00 is not acceptable underneath and opposite blocks of residential flats.

The Police describe London Road as a residential area and stress it is also a Cumulative Impact Area, meaning that more Night Time Economy use is unacceptable.

Residents gave in evidence of horrific drunken behaviour and violence in the district over the past 30 years.

Of course , crime statistics since the issue of the first SEV will be very low due to lockdown and these figures will be out of proportion to those at other times, about 300 or more call outs a month in London Road and nearby streets.

The Prevention of Crime and Disorder and Public Nuisance.

From Southampton Safe City Strategic Assessment. 2018/ 2019

6. Key Themes

6.1 Violence Against the Person Violent crime covers a range of offence types from minor assaults, such as pushing and shoving that result in no physical harm, to murder. It includes offences where the victim was threatened with violence whether or not there is any injury. A change in Home Office counting rules in 2018/19 in relation to types of violence without injury (harassment, malicious communication and stalking) means that these are now counted as discrete offences and trends should be interpreted with caution. 6.1.1 Trends and Benchmarking Rates of Recorded Violent Crime In a continuation of the recent national trend, the number of police recorded violent crimes increased over the past year to over 1.5 million crimes. Some of this increase is thought to result from improved recording practices but it is likely that rises in the most serious categories reflect genuine rises in violent crime. 46 The Crime Survey for England and Wales (CSEW) estimates that there were 1.3 million incidents of violence experienced by adults aged 16 and over in the latest survey year ending March 2019. This figure has not changed significantly compared with last year and continues the relatively stable trend seen over the last five years. Although CSEW includes offences not reported to the police, and provides a good picture of the overall trend in violent crime, police recorded crime figures cover a wider range of offences than the CSEW and provide a better measure of higher-harm but less common types of violence.

Southampton has a relatively high recorded rate of violent crime at 43.8 recorded crimes per 1,000 population in 2018/19 (figure 6.1.1). As with in all years since 2011/12 this is significantly higher than the England rate (27.4 in 2018/19) and places Southampton third highest among its group of most similar community safety partnerships, and 19th highest of community safety partnerships in England.⁴⁷ The rate of violent crime recorded in Southampton is not significantly different from that recorded in its local comparator city of Portsmouth, which has the second highest recorded rate of 44.6 recorded crimes per 1,000 population. **Similarly, Southampton is also placed third highest amongst its most similar group of community safety partnerships in terms of the severity of the violent crime experienced. UNQUOTE**

Appendix 4

Obviously, there is no evidence of problems during the time span of the previous licence as with no planning consent at the time of my writing the club cannot open. Having been an objector at the licence hearing and previous SEV hearing I was horrified that the smoking area for both staff and customers is **outside** the fire doors in the dingy alley at the back of the club and anyone drunk will be thrown out at the same place.

The nearby industrial wheelie bins could hide anyone intent on robbery or assault. This alley gives on to an area with bars and clubs turning out all night and has seen incidents of violence for many years past. This would put club patrons in danger. This would be contrary to Public Safety, Prevention of Crime and Disorder. The fire doors are only 4 metres away from the windows of the five storey flats called Mede House in Salisbury Street.

The sound of doors opening and closing and smokers talking, using phones will mean all night sleep deprivation. There are also several flats, two floors of them above the row in which the club is situated, meaning that residents there and in Mede House would be disturbed by patrons entering and leaving from 9 p.m. to after 05.00 a.m

How will the smokers get back in ?

What kind locks are on the doors ? If they can be opened from outside by the smokers / dancers could intruders intent on robbery get in the same way ?

If smokers need to phone in to re-enter then that would disturb flat dwellers.

Contrary to Prevention of Crime and Disorder and Public Safety.

What level of noise is made by the doors opening and closing ? Has anyone tested this out ?

I do realise that many nearby flats are empty this summer owing to fewer students residing, they are learning in their home towns and cities.

However, if the capacity is only 60 , when club is already full, where will waiting patrons be asked to sit or stand, in their cars ,taxis, or on pavement ?

In all these places they will cause noise and disturbance, talking or with the banging of vehicle doors.

Contrary to Public Nuisance..

They cannot wait in the pizzeria, as that has a midnight closing hour. ?

On Tuesday June 16th 2020 I noticed that there was a boarded up front door panel at the premises Kellys Black Diamond and this week Tesco across the road had boarded up window, previously

smashed ,as well as cracked window at Corals Betting shop in same row as Diamond at junction of Vernon Walk.

Quite surprising ,considering that there are now fewer people in the area .

I may add further comments before the end of the consultation period.

Lorraine Barter
42 Harborough Road
Polygon
Southampton
SO15 2FY



Home Office

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 cursive script that reads "Alan Campbell".

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 6th April as does the *Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010*. In Wales, the equivalent provisions come into force on 8th 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 council¹;
 - (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.

¹ 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 6th April 2010 in England and 8th May in Wales². 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

² 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 Authorities³ and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees within the service sector.⁴

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/values⁵ 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

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

⁴ www.lacors.gov.uk

⁵ 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.⁶

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;

⁶ 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.⁷

3.31 The Provision of Services Regulations 2009⁸ 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

⁷ *Belfast City Council v Miss Behavin' Ltd (Northern Ireland) (2007) [2007] UKHL 19*

⁸ 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.⁹

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

⁹ 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.¹⁰

- 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

¹⁰ 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.¹¹

- 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

¹¹ 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 1st 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 1st 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)¹² 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.

¹² [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

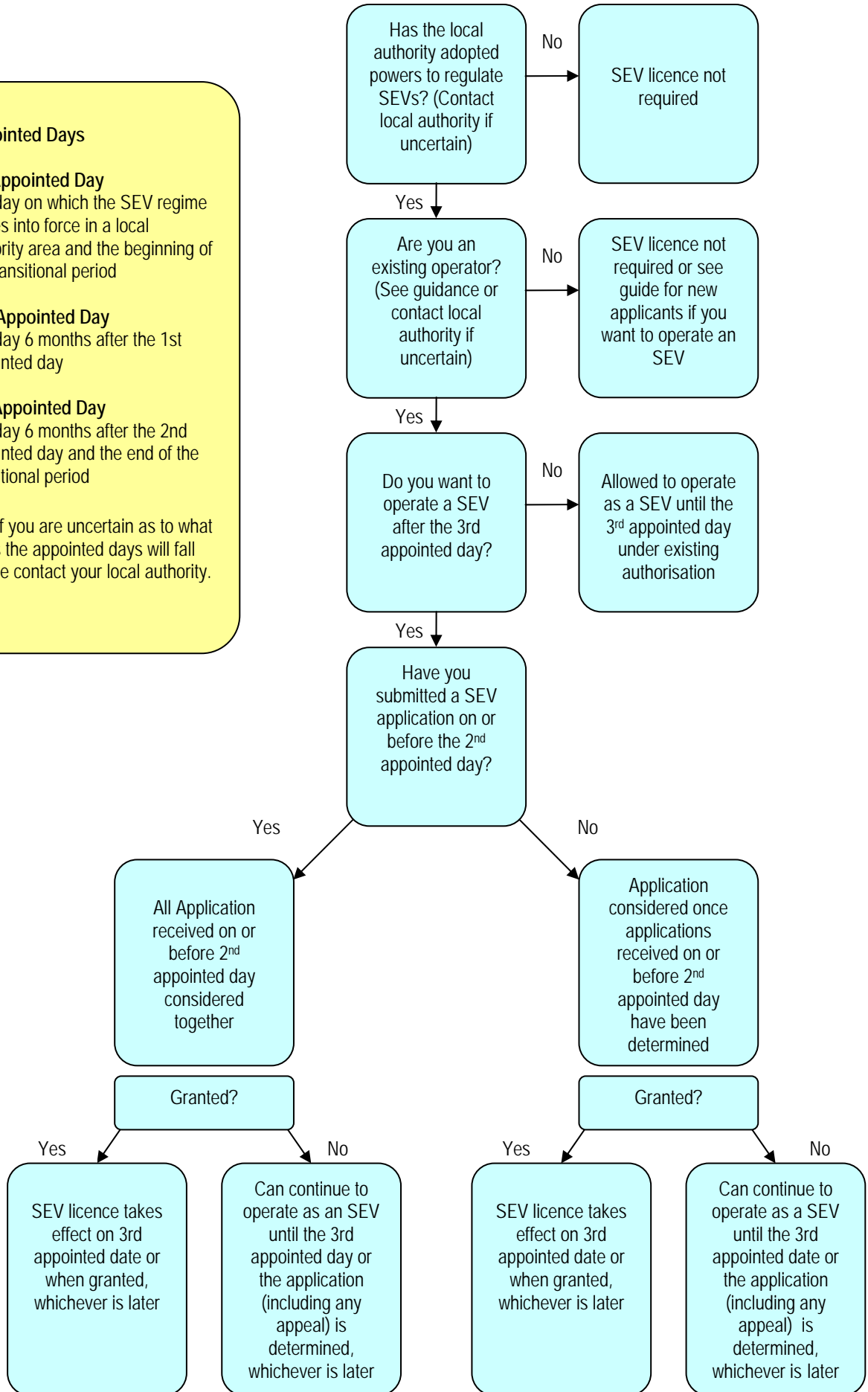
Appointed Days

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

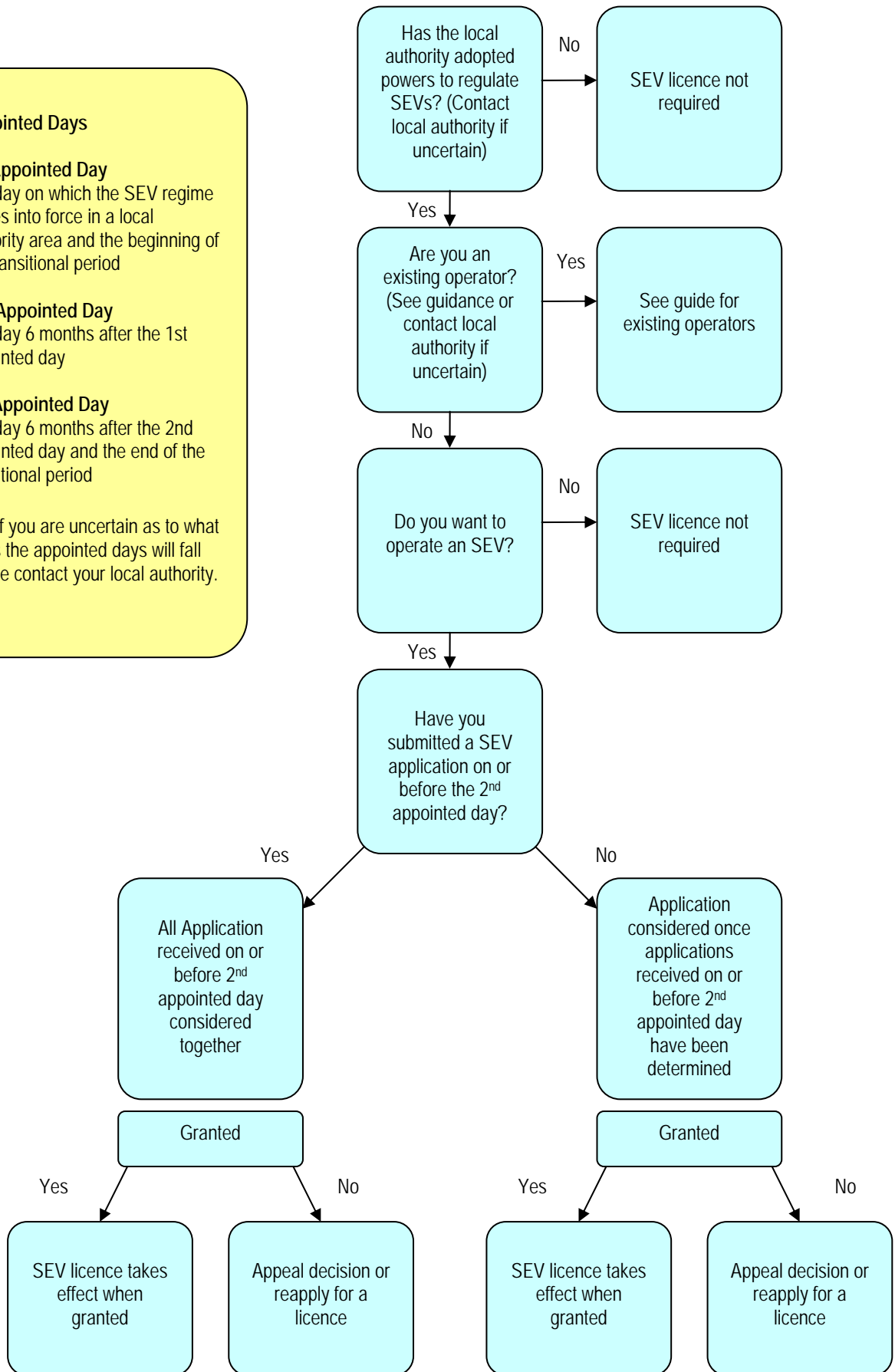
Appointed Days

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.



APPENDIX 6

Special Procedure for the Licensing (General) Sub-Committee – Applications for Sex Establishment licences

One of the Council's Corporate Legal Advisors will be in attendance throughout the proceedings and he/she is there to advise Members. Sub-Committee Members may seek clarification on points of procedure at any time.

Please note that the Sub-Committee will normally adjourn for lunch at 1:00 p.m. and that comfort breaks will be taken at the discretion of the Chair at appropriate points during the meeting.

1. INTRODUCTION

- ◆ Everyone to introduce themselves
- ◆ The Licensing Officer will introduce the report, including background information and any written objections received.
- ◆ Members' questions to the Licensing Officer

2. OBJECTORS

If Objectors (including Police) have attended indicating a wish to address the Sub-Committee the Sub-Committee will consider each request in light of its discretion to permit oral representations.

As a guide, such representations will only be permitted if appropriate in order to briefly summarise and expand upon the main points of objection as set out in written submissions. Mere recitation of previous written submissions will not be permitted, nor will the introduction of entirely new grounds of objection.

Questions of Objectors will not be permitted by any party (including Members).

3. APPLICATION

The applicant or their representative will outline the details of the application and call any witnesses in support.

Questions may be asked of the applicant or of any witnesses by:

Licensing Officer

Members of the Sub-Committee

The applicant may call supporting witnesses at their discretion during the presentation of their application. Questions may be asked by the Sub-Committee Members / Licensing Officer of such witnesses at any appropriate point in their presentation

If any written objections have been received the applicant or their representative will be invited to comment on them

4. SUMMING UP

The applicant or their representative will have a final opportunity to sum up their application.

5. CONSIDERATION OF DECISION - CONFIDENTIAL SESSION

Members of the Sub-Committee will retire to consider the decision. In doing so the Solicitor to the Sub-Committee and the Sub-Committee Administrator will retire with them, but will take no part in the discussion of the merits of the case or what the decision should be

Should the Solicitor to the Sub-Committee be required to clarify any points of law, these will be repeated in the public session.

6. ANNOUNCEMENT OF DECISION

Sub-Committee Members will return and the Chair of the Sub-Committee will deliver the decision in public session. The Licensing Officer will confirm this decision in writing to the Applicant within 7 days of the Sub-Committee decision, together with details of any relevant right of appeal.

Note: This procedure note is issued as a guide only – the order and conduct of business may be varied by the person presiding at any time in order to facilitate the determination of the matter, having regard to statutory restrictions and the rules of natural justice.



Sex Establishment Licensing Policy

1. Introduction

- 1.1. Southampton City Council as Licensing Authority has a statutory duty to administer the licensing regime in accordance with the law, not in accordance with any moral standpoint and therefore will not take into account any unrelated considerations that would call into question the validity or vires of any subsequent decision(s) made. All decisions will be based on the facts of an individual case and having regard to any policy in force. Southampton City Council recognises that Parliament has made it a lawful activity to operate a licensed sex establishment and such businesses are a legitimate part of the retail and leisure industries.
- 1.2. This policy document relates to the administration of applications for licences for sex establishments. Sex establishments will fall into one of the following categories:
 - Sex shops
 - Sex cinemas
 - Sexual entertainment venues

2. Background Information

- 2.1. The licensing authority recognises that the entertainment industry in Southampton is a major contributor to the local economy. It attracts tourists and visitors, makes for vibrant communities and is a major employer. Commercial occupiers of premises have legitimate expectations for an environment that is attractive and sustainable for their businesses.
- 2.2. The city also has a substantial residential population, whose amenity the licensing authority has a duty to protect. In some areas local residents are affected by an increase in the concentration of entertainment uses and longer hours of operation.
- 2.3. Southampton is the south coast's regional capital with a population of over 236,600 in an area of 50 square km. The dynamic and vibrant city is forward-looking, balancing steady growth as a prosperous commercial centre with a high quality of life for its citizens. Southampton has been voted one of the most pleasant places to work in the UK, and is the gateway to a wide range of world-class features from the Solent with its maritime opportunities to the new national park in the New Forest.
- 2.4. Southampton boasts the south's largest concentration of major companies and is home to some of the UK's biggest brands, from Ordnance Survey, Carnival, Skandia Life to HSBC. Commercially, Southampton's success is also notable. The West Quay shopping centre opened in 2000 and in the years since, Southampton is 15th nationally in the table of shopping destinations. IKEA opened its first UK city centre store in 2009. Additionally, it is home to two universities, the University of Southampton and Southampton Solent University and has a student population exceeding 35,000.
- 2.5. Southampton is the largest city in southeast England outside London, and is seeing expansion in important emerging sectors, including media and creative industries, business and financial services, marine engineering, tourism and defence applications. Southampton has a rich heritage, with a famous seafaring history as an important Roman and then Saxon port. The Old Town is surrounded by some of the best-preserved

medieval walls in the country. Monuments commemorating links with Henry V, the Pilgrim Fathers and RMS Titanic can be found around the city.

- 2.6. 2.4 million people live within an hour's drive, with over half a million within the "travel-to-work" area. Southampton's position in the centre of the south coast offers a wealth of advantages. Southampton is the region's cultural heart with a nationally renowned art gallery and first class venues for opera, theatre, music and cinema. Southampton is the south's principal media centre: the BBC and radio and regional newspapers are all based in the city region. There are plans for significant new performance, exhibition and studio space in the city's "Cultural Quarter" which has been awarded an Arts Council grant of £7.5 million. The Council is also moving forward with long-standing plans for a multi-use entertainment, conference and leisure venue in the city and significant improvements to the waterfront adjacent to Royal Pier and Mayflower Park.
- 2.7. The city and Port of Southampton is at the heart of the country's international cruise industry and enjoys a growing market with over 1.5 million cruise ship passengers passing through the port annually.
- 2.8. Southampton lies at the very centre of the south coast's communications network, providing excellent links to national and international destinations through Southampton International Airport and the Port of Southampton. The city maintains a strong international profile and has forged close commercial and cultural ties with European and Far Eastern centres.
- 2.9. At the time of drafting this policy, four licensed sex shops are operating in the city.

3. Definitions

- 3.1. For the purposes of this policy, the following definitions will apply:
- 3.2. **Sex Shop** (*paragraphs 4(1) &(2), Schedule 3 of the 1982 Act*)
- 3.2.1. Any premises, vessel, vehicle or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:
 - Sex articles; or
 - Other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.
- 3.3. No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.
- 3.4. **Sex Article** (*paragraphs 4(3) & (4), Schedule 3 of the 1982 Act*)
- 3.4.1. Anything made for use in connection with, or for the purpose of stimulating or encouraging:
 - Sexual activity; or
 - Acts of force or restraint which are associated with sexual activity; and anything to which the sub-paragraph below applies.
 - This sub-paragraph applies:
 - To any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - To any recording of vision or sound, which is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or is concerned primarily with the portrayal of, or primarily deals

with or relates to, genital organs, or urinary or excretory functions.

3.5. Sex Cinema (*paragraphs 3(1) & (2), Schedule 3 of the 1982*)

3.5.1. Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:

- Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are 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 primarily deal with or relate to, genital organs or urinary or excretory functions,
- But does not include a dwelling-house to which the public is not admitted.

3.5.2. No premises shall be treated as a sex cinema by reason only –

- If they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation.
- By their use for an exhibition to which section 6 of the Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the former Cinemas Act 1985.

3.6. Sexual Entertainment Venue (*paragraphs 2A(1) &(2), Schedule 3 of the 1982 Act as amended by section 27 of the 2009 Act*)

3.6.1. Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer.

3.6.2. 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).

3.6.3. In terms of considering what constitutes “relevant entertainment” each case shall be judged on its merits but guidance produced by the Home Office suggests that the definition of relevant entertainment would apply to the following forms of entertainment as they are most commonly understood:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows.

3.6.4. However, the above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should merely be used as an indicator for certain types of entertainment as 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.

3.6.5. The following are not sexual entertainment venues for the purposes of this policy:

- Sex cinemas and sex shops;
- Premises which provide entertainment on an infrequent basis. These 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 occasions; and
 - 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;
- Private dwellings with no public admittance.

4. Mandatory Grounds for Refusal of an Application *(paragraph 12(1), Schedule 3 of the 1982 Act)*

4.1. The 1982 Act sets out 5 mandatory grounds for refusing a sex establishment licence which are set out below:

4.1.1. That the applicant:

- Is under the age of 18;
- Is for the time being disqualified from holding a sex establishment licence;
- Is not a body corporate, and is not resident or has not been resident in an EEA state for six months preceding the date of the application;
- Is a body corporate which is not incorporated in an EEA state;
- Has, in the period of 12 months preceding the date of the application, 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.

5. Discretionary Grounds for Refusal of an Application *(paragraph 12(3), Schedule 3 of the 1982 Act)*

5.1. The 1982 Act also sets out four discretionary grounds for refusing a sex establishment licence. An application for transfer of a licence may be refused on either or both grounds i. and ii. set out below.

- i. The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- ii. If the licence were 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;
- iii. 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 is appropriate for that locality;
- iv. The grant or renewal would be inappropriate, having regard –
 - To the character of the relevant locality;
 - To the use to which any premises in the vicinity are put;
 - To the layout, character or condition of the premises, vehicle, vessel or stall

in respect of which the application is made.

5.2. Suitability of applicant

5.2.1. When considering the suitability or otherwise of an applicant, the Licensing Authority will have due regard not only to whether or not an applicant has been convicted of an offence but any other grounds which would call into question his/her suitability.

5.2.2. The Licensing Authority will wish to be satisfied that:

- The applicant is sufficiently trustworthy to operate the sex establishment in accordance with the terms and conditions imposed on any licence granted, as well as the law;
- The welfare of the performers at the licensed premises will be protected;
- That the safety of the public attending the premises will be provided for; and
- The needs and rights of persons/businesses living or working in the area, and indeed the area itself, are recognised and respected.

5.2.3. In those cases where an applicant has been convicted of an offence, the Licensing Authority will consider, on individual merit, the nature and seriousness of the offence and the time which has elapsed since the date of conviction.

5.2.4. Applicants should be aware that certain offences will give rise to particular concerns and in particular will include:

- Sexual offences;
- Offences involving prostitution, drugs, dishonesty or violence; and
- Licensing offences.

5.2.5. In considering the overall suitability of an applicant to hold a licence, the following factors will be taken into account by the Licensing Authority:

- Honesty and integrity of the applicant;
- Relevant experience of running similar sex establishments;
- Understanding of the terms and conditions relating to sex establishments;
- Reliability to run the premises in accordance with the licence;
- Track record of compliance in relation to other premises and/or licensing regimes;
- Intention to manage the premises himself or to employ others in that role;
- Existence or otherwise of a credible management structure to demonstrate the ability to comply with operating conditions incorporating such matters as:
 - Managerial competence
 - Presence
 - Employment of individuals who have sufficient experience in running such premises
 - Internal enforcement of rules (including training, monitoring, publication of rates for performers and customers)
 - Viable business plan
 - Demonstrate ability to act in the best interests of performers
 - Preparation and enforcement of a written welfare policy for performers
 - Procedures in place to ensure performers are adults and entitled to live and

work in UK

- Demonstrate measures to protect the public (such as transparent rate of charges and prevention of solicitation)

5.2.6. In all cases, the Licensing Authority will give serious consideration to the observations of the Chief Officer of Police in relation to concerns expressed about the suitability of an individual applicant, body corporate or an individual officer of a company.

5.3. Suitability of the manager of the business or other beneficiary

5.3.1. The Licensing Authority will need to be satisfied that the proposed premises and activities are not a device to facilitate illegal activity and that those persons in ultimate control of the sex establishment can demonstrate that they will operate the premises in such a manner so as to promote the objectives of the legislation.

5.4. Number of sex establishments

5.4.1. Southampton City Council recognises that the Act allows discretion by the Licensing Authority to impose a numerical control on the number of sex establishments in a particular locality (including the provision that nil may be an appropriate number) and that this control can apply to both the overall number of sex establishments and also the number of each kind.

5.5. Character of the relevant locality

5.5.1. Applicants should be aware that the Licensing Authority may refuse a licence on this ground regardless of what may or may not be an appropriate number of sex establishment licences within the locality.

5.5.2. In considering whether it is appropriate to grant a licence having regard to the character of the relevant locality, the Licensing Authority will take account of the following factors, together with such other factors as may be considered relevant in the individual circumstances of the case:

- The general character of the area (e.g. family residential, family leisure or educational area);
- The impact of the premises on the character of the area;
- The current use for night-time leisure activities including existing sufficient representation of sex-orientated uses;
- Gender equality issues, including whether the proposed use, particularly at night, would deter women from using the area comfortably or at all;
- Raising the fear of crime in the locality should further sex-orientated uses be authorised;
- Effects upon regeneration and tourism in the area;
- Level of genuine demand (including the risk that excess supply would drive down standards and lead to problems associated with compliance with conditions.

5.6. Use of premises in the vicinity

5.6.1. Applications for sex establishment licences may be refused where the Licensing Authority considers that the grant of a licence would be inappropriate having regard to the use of other premises in the vicinity. Whilst the term “vicinity” is not defined in the 1982 Act, the Licensing Authority considers that “vicinity” will be a smaller area than “locality” as referred to in paragraph 5.4 above.

5.6.2. Applicants should be aware that the Licensing Authority may refuse a licence on this ground regardless of the character of a locality or indeed what may or may not be an appropriate number of sex establishment licences within it.

- 5.6.3. When considering the type of uses which may be deemed to be inappropriate, due regard will be given to the suitability of the proposed location of the premises and will take into account relevant factors including, but not limited to, the presence of what may be regarded as sensitive issues (e.g. dwellings, places of worship, schools, youth clubs, community centres, women's refuges, libraries, parks or swimming pools).
- 5.6.4. Applicants are advised to consider the impact of their proposed application prior to considering whether or not they wish to operate a sex establishment business in an area and state in their application how they believe any potential impacts could be mitigated. The Licensing Authority reserves the right to take into account other issues or considerations that may arise at the application and consultation stage as well as during the licence period.

5.7. Layout, character or condition

- 5.7.1. When considering the issue of a licence in terms of its layout, character or condition, the Licensing Authority will give consideration to general factors such as:
- Provision of proper access for disabled people;
 - Safe in terms of its structure and overall standards of maintenance for the building;
 - Sufficient provision for surveillance and overall supervision;
 - Standard of fit out of the premises;
- 5.7.2. While the Licensing Authority will not refuse a licence merely because the premises do not have planning permission for use as a sex establishment, the authority will take into account the absence of planning permission to the extent relevant to the statutory grounds for renewal.

6. Application Process

- 6.1. Application forms are available from the Council's website at:
www.southampton.gov.uk/sexest/
- 6.2. Upon receipt of an application for the grant, renewal, transfer or variation of a licence, the Licensing Authority will consult, at minimum, with the following bodies/individuals and will have regard to any observations received from them:
- Hampshire Constabulary
 - Hampshire Fire and Rescue Service
 - Southampton Safeguarding Children Board
 - Southampton City Council's Planning and Development Manager
- 6.3. An application for the grant, renewal, transfer or variation of a licence must be formally advertised in two specific ways:
- Within 7 days after the date of application, the applicant must arrange for a public notice to be published in a local newspaper;
 - Where the application is in respect of premises, the applicant must also display a notice of the application on or near the premises in question. The notice must be placed in such a position so that it can be conveniently read by the public. The notice must be displayed for twenty-one days starting with the date of the application.
- 6.4. The notice must include information relating to:
- Details of the premises to which the application relates;

- Details of the applicant;
 - Type of sex establishment licence being applied for;
 - Whether the application is for the grant, renewal, transfer or variation of a licence;
 - Details of how persons may object; and
 - Closing date for representations.
- 6.5. The applicant must also send a copy of the application to the Chief Officer of Police for the local authority area no later than seven days after the date of application, unless the application is submitted electronically and in which case the Licensing Authority will serve notice on the Police.

7. Consideration of an Application

- 7.1. The Licensing Authority will have regard to all information provided by an applicant in support of an application.
- 7.2. Any person wishing to object to an application must give notice of their objection in writing, stating the general terms of the objection no later than twenty-eight days after the date of the application. Any person may object to an application. However objections must be relevant to the grounds set out in paragraph 12, Schedule 3 of the 1982 Act. Those grounds are set out in sections 4 and 5 of this policy. Objections based solely on moral grounds/values will not be considered.
- 7.3. The Licensing Authority will notify the applicant, in writing, of the general terms of any objection received within the twenty-eight day period allowed for objections.
- 7.4. The 1982 Act protects the rights of objectors to remain anonymous. The Licensing Authority will not reveal names or addresses of any objector to the applicant without their consent. However, general information such as the objector lives within a certain distance of the premises in question will be released in order to give the applicant an opportunity to rebut any concerns so far as geographical vicinity or locality is concerned.

8. Determining an Application

- 8.1. All applications where objections have been received or where consultees have raised concerns will be referred to the Licensing Sub-Committee for determination at a hearing and all parties will be given the opportunity to put forward their case at the hearing.
- 8.2. The Licensing Authority will consider each application on its individual merits.
- 8.3. The Licensing Sub-Committee will retire at the end of the hearing to make its decision on the facts of the case in private.
- 8.4. In most cases the Licensing Sub-Committee will deliver its decision and reasons at the end of the hearing. However, where it is considered proportionate and necessary to do so, the Licensing Sub-Committee may delay making a decision so as to allow for consideration of the respective cases put before it and so as to permit further time for a reasoned decision to be formulated. Any decision and reasons will be communicated, in writing, to the applicant and all other parties within 10 working days of the hearing.

9. Hearings

- 9.1. Hearings will be arranged as soon as reasonably practicable following the end of the consultation period. Applicants and other interested parties will be given at least ten days' notice of the proposed date for hearing and more where possible to do so.
- 9.2. All applicants will be given the opportunity to appear before and be heard by the Licensing Sub-Committee responsible for determining the application. Applicants will be

entitled to be represented by a legal advisor or similar agent. Witnesses may be called with permission from the Chair of the Sub-Committee.

- 9.3. Persons objecting to applications will also be given the opportunity to appear at the hearing to discuss their objections.
- 9.4. The hearing will take place in public except where the public interest requires otherwise, although members of the public being disruptive will be required to leave the meeting.
- 9.5. All parties will be allowed an equal maximum period of time for the presentation of their case but it is expected that all parties keep points pertinent and the discussion moving in the interests of cost and efficiency.

10. Appeals

- 10.1. A right of appeal exists for applicants in respect of the refusal of applications for the grant, renewal, transfer or variation of a sex establishment licence. A right of appeal is also available in relation to the imposition of conditions and revocation of licences.
- 10.2. However, appeals against mandatory refusals (see section 4 of this policy document) can only be lodged on the basis that the mandatory ground does not apply to the appellant.
- 10.3. Additionally, no appeal provisions exist in respect of refusals to grant or renew licences on the discretionary grounds of:
 - The number of sex establishments in the relevant locality;
 - The character of the relevant locality;
 - The use to which any premises in the vicinity are put;
 - The layout, character or condition of the premises.
- 10.4. The time limit for lodging an appeal to the Magistrates' Court is twenty-one days beginning with the date of notification of the decision. The commencement time for the purposes of this section will be from when the applicant receives formal written notification of the decision and reasons.
- 10.5. The 1982 Act also provides for further appeal to the Crown Court.

11. Duration of Licences

- 11.1. Licences for sex establishments may be granted for a maximum period of one year but the Licensing Authority may grant a shorter period of time if it thinks fit.

12. Licence Conditions

- 12.1. The Licensing Authority will impose standard conditions that are relevant to all licensed sex establishments. These may include, but are not limited to:
 - Opening and closing hours
 - Displays and advertisements on or in sex establishments
 - Visibility of the interior of a sex establishment to passers-by
 - Any change of use from one kind of sex establishment to another.
- 12.2. The Licensing Authority has made Regulations as to standard conditions which are set out at Appendix A to this policy. Such conditions will be imposed unless they are varied in an individual case. Any applicant for such variation must set out the variation requested in the application, together with reasons why the variation is sought and how it intends to achieve the objectives of the standard conditions if a variation is permitted.
- 12.3. The Licensing Authority may also specify other conditions specific to individual premises

dependant on the type of activity undertaken and the type of premises. These may include, but are not limited to:

- Specifying minimum distances between the audience and performers
- Control of access to changing room facilities
- Control of private viewings
- Additional conditions may be imposed where appropriate and necessary.

13. *Waiving of the need for a Sex Establishment Licence* (paragraph 7, Schedule 3 of the 1982 Act.)

- 13.1. In certain circumstances the Licensing Authority may waive the need for a sex establishment licence. However, applicants should be aware that it is considered that the waiver system is not a substitute for the licensing regime but may be useful in certain borderline cases or where events are minor or temporary. Equally it may be an appropriate alternative solution where clarity or regularisation is considered necessary.
- 13.2. An application for a waiver can either be made as part of an application for a licence or on a separate basis. The Licensing Authority may grant a waiver if it considers that to require a licence would be unreasonable or inappropriate.
- 13.3. In those cases where a waiver is granted the Licensing Authority will confirm, in writing, to the applicant that such a waiver has been approved. The waiver can last for any such period that the Licensing Authority think fit but equally it can be terminated by the Authority at any time subject to a notice period of 28 days.
- 13.4. The Licensing Authority will consider such applications on an individual basis. However, the Licensing Authority considers that in normal cases, licences should be sought for licensable activities and waivers will be granted only in exceptional cases.

14. *Exchange of Information*

- 14.1. The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. Personal details will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold about you. The Council may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 14.2. The Authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1988 to exchange data and information with the Police and other partners to fulfil its statutory objective of reducing crime in the area.

15. *Enforcement and Compliance*

- 15.1. There are serious penalties for breaching the law relating to the control and supervision of sex establishment premises. Historically, Southampton City Council has taken robust action to prosecute individuals and businesses operating outside of the law and will maintain this stance in order to ensure protection of the public and to enforce this policy.
- 15.2. As a consequence, the Licensing Authority will establish protocols with other statutory agencies on enforcement issues. This is to enable the more effective deployment of staff who are commonly engaged in enforcing licensing law and the inspection of licensed premises. The aims of the protocol are to target agreed problem and high risk premises which require greater attention while providing a lighter touch in respect of low risk premises which are well run.



**Schedule 12
Part A
Premises Licence**

Regulation 33,34

Premises licence number	2019/03677/01SPRV
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Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description,

Black Diamond
Basement
35 London Road
Southampton
SO15 2AD

Telephone number

Where the licence is time limited the dates
Not applicable

Licensable activities authorised by the licence
Live music
Recorded music
Performances of dance
Anything similar to live music, recorded music or performances of dance
Provision of late night refreshment
Supply by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Live music	
Monday	10:00 - 04:30
Tuesday	10:00 - 04:30
Wednesday	10:00 - 04:30
Thursday	10:00 - 04:30
Friday	10:00 - 04:30
Saturday	10:00 - 04:30
Sunday	10:00 - 04:30
Recorded music	
Monday	10:00 - 04:30
Tuesday	10:00 - 04:30
Wednesday	10:00 - 04:30
Thursday	10:00 - 04:30
Friday	10:00 - 04:30
Saturday	10:00 - 04:30
Sunday	10:00 - 04:30

Performances of dance

Monday	10:00 - 04:30
Tuesday	10:00 - 04:30
Wednesday	10:00 - 04:30
Thursday	10:00 - 04:30
Friday	10:00 - 04:30
Saturday	10:00 - 04:30
Sunday	10:00 - 04:30

Anything similar to live music, recorded music or performances of dance

Monday	10:00 - 04:30
Tuesday	10:00 - 04:30
Wednesday	10:00 - 04:30
Thursday	10:00 - 04:30
Friday	10:00 - 04:30
Saturday	10:00 - 04:30
Sunday	10:00 - 04:30



Provision of late night refreshment

Monday	23:00 - 04:30
Tuesday	23:00 - 04:30
Wednesday	23:00 - 04:30
Thursday	23:00 - 04:30
Friday	23:00 - 04:30
Saturday	23:00 - 04:30
Sunday	23:00 - 04:30



Supply by retail of alcohol

Monday	10:00 - 04:30
Tuesday	10:00 - 04:30
Wednesday	10:00 - 04:30
Thursday	10:00 - 04:30
Friday	10:00 - 04:30
Saturday	10:00 - 04:30
Sunday	10:00 - 04:30



The opening hours of the premises

Monday	10:00 - 05:00
Tuesday	10:00 - 05:00
Wednesday	10:00 - 05:00
Thursday	10:00 - 05:00
Friday	10:00 - 05:00
Saturday	10:00 - 05:00
Sunday	10:00 - 05:00



Where the licence authorises supplies of alcohol whether these are on and / or off supplies
Alcohol is supplied for consumption both on and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Southampton Clubs Ltd.
36 Alie Street
London
E1 8DA

Registered number of holder, for example company number, charity number (where applicable)

11868376



Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Andrew David Simpson



Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: 2006/00267/02SPEN
Licensing Authority: Southampton City Council

This premises licence is issued by Southampton City Council as licensing authority under part 3 of the Licensing Act 2003 and regulations made thereunder

Dated this 28th day of August 2019;



Licensing Manager
Southampton & Eastleigh Licensing Partnership
PO Box 1767
Southampton
SO18 9LA

Annex 1 – Mandatory Conditions

1 No supply of alcohol shall be made under the premises licence:

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor for the premises does not hold a personal licence or his personal licence is suspended.

2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

4 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

5 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

6 The responsible person must ensure that

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

7 1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition set out in paragraph 1 —

(a) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) 'permitted price' is the price found by applying the formula —

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence —

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

8 Where any condition of this licence requires that, at specified times, one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority, unless the Private Security Industry Act 2001 does not require them to be so licensed.

Annex 2 – Conditions consistent with the operating Schedule

1 CHILDREN

No persons under the age of 18 shall be allowed on the premises

2 Hours

Permitted hours for licensable activities beyond 02:00 hours (00.30 on Sundays) shall only be permissible when the premises are operating as a Sexual Entertainment Venue.

3 Seasonal Variation

An additional hour to all licensable activities to the standard and non-standard times on the day when British Summertime commences.

On New Year's Eve licensable activities are permitted until the start of permitted hours the following day.

Annex 3 – Conditions attached after a hearing by the licensing authority

1 Alcohol Off Sales

Alcohol off sales are restricted to pre-purchased bottles no smaller than 70cl which have been resealed by the premises.

2 SECURITY

From 22:00 hours until the closing time of the venue, a ratio of two front line door supervisor SIA-registered security staff shall be employed at the venue for the first 100 persons and then 1:100 thereafter, e.g. 1-100 two door/security staff, 101-200 three door/security staff, 201-300 four door/security staff and so on. This number is to include only front line door supervisor SIA staff employed solely on the door supervisor/security duties, i.e. safety and security at the venue. All persons who are frontline door supervisor SIA registered and whose position or role profile is solely security at the venue, shall wear a fluorescent and/or a reflective orange tabard, clearly marked security at all times.

All front door refusals are to be recorded promptly, including the reason i.e. too intoxicated, barred suspicion of drugs etc. If a person is ejected from the venue by a member of staff, a record must be made of the incident including details of the staff members involved and a summary of the circumstances. This must be completed as soon as practicable but prior to the end of that person's shift.

A nominated member of security shall be positioned at the entrance / exit doors and shall be responsible for counting persons in and out of the venue. They shall use a device suitable for counting as approved by the police licensing department responsible for the area. As such, an accurate number of persons in the venue must be known at all times the venue is operating under its premises licence. This number is to include staff.

At the terminal hour of operation, the licence holder shall ensure that adequate numbers of door supervisors are employed to assist with the management of customers leaving the venue as well as those remaining in the vicinity of the premises. 2 members of door staff are to patrol the vicinity of the venue for 15 minutes after closing, to assist with safe dispersal from the area. The door staff are to be identified by wearing high visibility tabards as used during normal door staff duties.

3 SECURITY REGISTER

The licence holder shall maintain a duty register giving details of each and every person employed in the role of a security/door person and shall provide upon request by any Police Officer or Council Officer, the following details:-

- (a) The licence number, name, and residential address and telephone number of that person;
- (b) The time at which he/she commenced that period of duty, with a signed acknowledgement by that person;
- (c) The time at which he/she finished the period of duty, with a signed acknowledgement by that person;
- (d) Any times during the period of duty when he/she was not on duty;
- (e) If that person is not employed directly by the licence holder or venue but via a security contractor company, then details of this company must also be supplied (company name and out of office contact details)
- (f) The register shall be so kept that it can be readily inspected by an authorised officer of the Council or Police Officer;
- (g) The duty register shall comprise of a bound, consecutively page-numbered book and the licence holder shall ensure that this register is kept in a secure environment in order to prevent unauthorised access or alterations to same

4 BODYWORN VIDEO (BWV)

From 22:00 hours at least one member of SIA staff who shall be positioned at the main entrance of the venue shall wear a body worn video camera

Another member of SIA staff operating within the venue shall also wear a body worn video camera. The equipment shall be maintained and the images will be made available as soon as practicable, but at least within 48 hours to the Police on request so long as the request is lawful with regards to the Data Protection Legislation. The equipment shall record high definition colour images and be able to capture sound, specifically conversation. The equipment shall be able to operate in all levels of illumination, images shall be time and date stamped.

Where the equipment fails the Police Licensing Department responsible for the area shall be notified immediately in writing or by email as soon as practicable and the defect remedied within 14 days of the failure.

Data obtained on the body worn video camera shall be downloaded as soon as practicable and be retained at the venue for at least 28 days.

5 CCTV

A colour recording CCTV system that captures images from the main public areas must be fully operational whilst licensable activities are taking place. The system shall be able to cope with all levels of illumination. The recording equipment shall be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and maintain the integrity of the system.

The system shall be serviced at twelve monthly intervals and maintained to a standard that is acceptable to the police licensing department responsible for the area. The system clock shall be checked regularly for accuracy taking account of GMT and BST.

Digital systems shall have sufficient storage capacity for 28 days evidential quality recordings (minimum 4 frames per second).

The images produced shall be date and time stamped. A notice shall be displayed at the entrance to the premises advising that CCTV is in operation. An additional recording CCTV camera shall be installed and fully operational whilst the venue is open to the public to cover the area immediately outside the front of the premises.

It is important that the Police are able to access data from the systems quickly and easily and therefore provision shall be made that at all times a person is in attendance who is nominated by the data controller who has access to the secure area who is able to operate the equipment. Ensure all operators receive training from the installer when equipment is installed and that this is cascaded down to new members of nominated staff. Have a simple operator's manual available to assist in replaying and exporting data (particularly important with digital systems) and to produce images to the police responsible authority for the purpose of the prevention and detection of crime as long as the request is lawful and complies with the data protection Act.

In the event of a technical failure of the CCTV equipment, the premises licence holder or DPS shall notify the police licensing department responsible for the area within 24 hours.

6 REFUSALS BOOK

A log shall be kept of all refusals including refusals to sell alcohol. The Premises Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the venue manager/manageress.

The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.

The record of refusals will be retained for 12 months

7 STAFF TRAINING

Before commencing their duties all new staff must receive information and training concerning the sale of age-restricted products.

This training must cover their legal responsibilities and action to be taken in the event of suspicions being aroused that someone is purchasing or attempting to purchase an item under the legal age.

All employees will sign a letter to acknowledge that they have completed this training and have understood their responsibilities on this area. This training should be reviewed and updated at reasonable intervals but at least annually

8 SCANNING

The premises licence holder shall operate and maintain in good working order, an electronic identification scanning system such as "Scannet or similar electronic document scanning device if commercially available.

All customers entering the premises shall be asked to produce photographic identification, such as a valid passport, valid driving licence or PASS card and agree to the said identification being used for scanning. Customers who do not agree to this will be refused entry.

All identification provided by customers shall be scanned electronically. The premises licence holder or venue representative will notify the Police Licensing Department responsible for the area in writing or by e- mail as soon as reasonably practicable if any issues arise in respect of the operation of the scanning system or the internet service accompanying it.

Details of persons banned at the venue are to be entered onto the device used by the venue and that information shared locally and nationally with other venues using the same or similar scanning system by way of the Information Technology System (internet protocol).

For the first 6 months the ID scanner will be used as a condition of entry and thereafter its continued use will be subject to review with the Police licensing department

9 INCIDENT BOOK

An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to police for inspection upon request.

Any incidents that include physical altercation or disorder, physical ejection, injury, id seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known).

Should there be any physical interaction by members of staff and the public the entry will include what physical action occurred between each party.

The entry shall be timed, dated and signed by the author.

If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry. At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.

This record will be retained for 12 months

10 CHALLENGE 25

There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older.

Acceptable identification for the purposes of age verification will include a photo card driving licence, passport, Military ID or photographic identification bearing the "PASS" logo and the person's date of birth.

If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

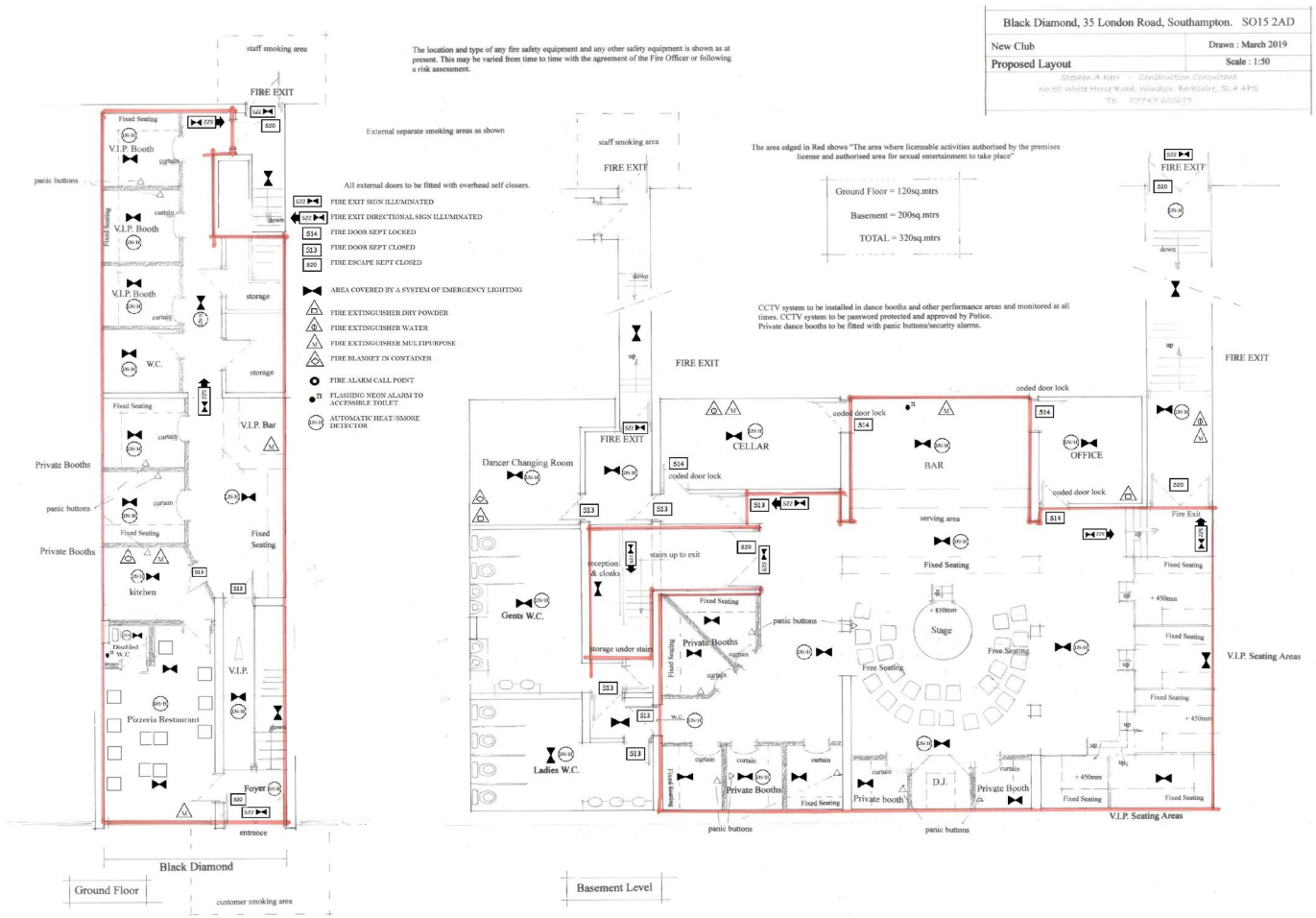
'Challenge 25' posters shall be displayed in prominent positions at the premises

11 RE-ENTRY

There shall be no admission or re-admission to the premises after 04:00 save for those persons who stand directly outside the front of the venue to smoke.



Annex 4 – Plans



LICENSING

Plan not reproduced to scale. SOUTHAMPTON CITY COUNCIL LICENSING

