

DECISION-MAKER:	LICENSING (GENERAL) SUB - COMMITTEE		
SUBJECT:	APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE (SEV) LICENCE – BLACK DIAMOND, BASEMENT, 35 LONDON ROAD, SOUTHAMPTON SO15 2AD		
DATE OF DECISION:	WEDNESDAY 28TH AUGUST 2019		
REPORT OF:	SERVICE DIRECTOR - TRANSACTIONS AND UNIVERSAL SERVICES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

NOT APPLICABLE

BRIEF SUMMARY

The Licensing (General) Sub-Committee is requested to consider and determine the application for a new Sexual Entertainment Venue (SEV) Licence from Southampton Clubs Limited in respect of Black Diamond, Basement, 35 London Road, Southampton SO15 2AD

RECOMMENDATIONS:

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| 1. | (i) | For the Sub-Committee to consider and determine the application for a new Sexual Entertainment Venue (SEV) Licence from Southampton Clubs Limited in respect of Black Diamond, Basement, 35 London Road, Southampton SO15 2AD |
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REASONS FOR REPORT RECOMMENDATIONS

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| 2. | The determination of applications for new Sexual Entertainment Venue (SEV) Licences is not delegated to officers, therefore it is for the sub-committee to consider and determine the application. |
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ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

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| 3. | None |
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DETAIL (Including consultation carried out)

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| 4. | The Council originally adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 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. |

6.	<p>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.</p> <p>The new regime came into force in Southampton on 20th August 2012 (known as the “first appointed day”), after which a 12 month transition period was in effect.</p> <p>The effect of the transitional period was that existing operators, who, immediately before the first appointed day, had a Licensing Act 2003 premises licence and lawfully used the premises as a sexual entertainment venue under that licence (or were undertaking preparatory work to use the venue in that way), were allowed to continue to provide relevant entertainment until the 20th August 2013 (the “third appointed day”) or the determination of any application they had submitted before the 20th February 2013 (the “second appointed day”), whichever was later.</p> <p>After the third appointed day, the regime, and any licences granted, were fully in force.</p>
7.	<p>The Legislation – Definitions</p> <p>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 the statutory provisions.</p> <p>A sexual entertainment venue is defined as: <i>“Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer.”</i></p> <p>Relevant entertainment is defined as: <i>“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).”</i></p> <p>It should be noted that an audience can consist of just one person e.g. when the entertainment takes place in private booths.</p> <p>Relevant entertainment is therefore different from regulated entertainment as defined in the Licensing Act 2003.</p>
8.	<p>In terms of considering what constitutes “relevant entertainment” each case must be judged on its merits, but the informal 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:</p> <ul style="list-style-type: none"> • Lap dancing • Pole dancing • Table dancing • Strip shows • Peep shows • Live sex shows.
9.	<p>However, the list above cannot be exhaustive and, as the understanding of the exact nature of these descriptions may vary, it should therefore merely be used as an indicator for certain types of entertainment. Ultimately, decisions on the licensing of individual premises as sexual entertainment venues will depend on the content of the entertainment provided and not on how it is described.</p>
10.	<p>The relevant entertainment must be provided for the financial gain of the “organiser” or “entertainer”.</p>

	<p>“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 cases this definition will relate to the manager of the premises but there could be circumstances where it will relate to an individual who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.</p>
11.	<p>The 1982 Act also sets out those premises that are NOT sexual entertainment venues. These are:</p> <ul style="list-style-type: none"> • Sex shops and sex cinemas; • Premises which provide entertainment on an infrequent basis. These are defined as premises where – <ul style="list-style-type: none"> (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. • Private dwellings with no public admittance.
12.	<p>On 28th June 2019, an application for a sexual entertainment venue licence in respect of Black Diamond, Basement 35 London Road Southampton SO15 2AD was received from Southampton Clubs Limited, whose registered office is 36 Alie Street, London. E1 8DA. A copy of the application and plans of the premises are attached as Appendix 1. An image of the proposed frontage of the premises is attached as Appendix 2.</p>
13.	<p>The premises does currently benefit from a premises licence issued under the Licensing Act 2003. This licence had effect immediately before the first appointed day, however it is understood that the premises were not operating as a sexual entertainment venue immediately before the first appointed day. Therefore, the transitional provisions have not applied to this premises and the premises is not currently operating as a sexual entertainment venue.</p>
14.	<p>The current premises licence authorises the supply by retail of alcohol until 0200 hours Monday to Saturday and 0030 hours on a Sunday. A variation application has been made on 27 June 2019, seeking to serve alcohol until 5am. This is to be determined at a later date.</p>
15.	<p>Applicants for the grant of an SEV licence are required to display a notice on, or near the premises to be licensed for 21 days and also advertise by way of a public notice in a local newspaper circulating in Southampton.</p> <p>Any person objecting to an application for the grant of an SEV licence is required to give notice of in writing to the local authority, not later than 28 days after the date of the application.</p>
16.	<p>Five objections have been received from residential addresses within the 28 day consultation period. These are attached as Appendix 3.</p>
17.	<p>The names and addresses of objectors must be kept confidential unless the objectors indicate otherwise.</p>
18.	<p>A copy of the application has been provided to Hampshire Constabulary, who have confirmed that they have no objection to the application.</p>
19.	<p>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</p>

	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.
20.	Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 sets out the framework for the consideration of applications for Sexual Entertainment Licences (SEV) licences.
21.	<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>
22.	<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> <p style="padding-left: 40px;">(i) to the character of the relevant locality; or</p> <p style="padding-left: 40px;">(ii) to the use to which any premises in the vicinity are put; or</p> <p style="padding-left: 40px;">(iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.</p>
23.	A decision to refuse a licence must be relevant to one or more of the above grounds.
24.	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.
25.	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.

26.	<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>
27.	<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>
28.	<p>A set of standard conditions to apply to all SEV licences is attached as Appendix 4. In relation to these conditions, the applicant has applied for the following amendments:</p> <p>Condition 14.5 to be amended to read ‘Performers must not perform a nude table dance unless in a supervised area.’</p> <p>Condition 15.4 to be dis-applied</p> <p>Condition 15.5 to be amended to read as follows: ‘The premises shall maintain a refusals log whereby any occasion a person is refused entry shall be recorded and available upon reasonable request by the Police or an authorised officer of the Council. The refusals log to be maintained for 12 months.’</p> <p>Condition 20.5 to be amended to allow use of curtains for the booths.</p> <p>Condition 20.7 to be dis-applied.</p>
29.	<p>The legislation – Appeals</p> <p>In the event that the Sub-Committee refuse an application for the grant of a SEV licence, the applicant may appeal the decision in a Magistrates’ Court, unless the</p>

	application was refused under paragraph 12(3) (c) or (d) of the Local Government (Miscellaneous Provisions) Act 1982, in which case the applicant can only challenge the refusal by way of judicial review.
30.	A copy of the Hearing Procedure is attached as Appendix 6 .
31.	A copy of the Sex Establishment Licensing Policy is attached as Appendix 7 .
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
32.	There are no financial implications.
<u>Property/Other</u>	
33.	Not applicable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
34.	Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the City Councils power to determine an application to vary the terms, conditions or restrictions of a sex shop licence.
35.	<p>If the Sub-Committee determines to grant an 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>	
36.	<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>
37.	<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>
RISK MANAGEMENT IMPLICATIONS	
38.	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

39.	The decision to determine the application in the manner set out in this report is not contrary to the council's policy framework.
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KEY DECISION?	No
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WARDS/COMMUNITIES AFFECTED:	
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SUPPORTING DOCUMENTATION**Appendices**

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| 1. | Application and plan for a new Sexual Entertainment Venue licence made in respect of Black Diamond, Basement, 35 London Road, Southampton. SO15 2AD. |
| 2. | A copy of the proposed shop frontage. |
| 3. | Public representations (Five in total). |
| 4. | Standard Conditions. |
| 5. | Home Office Guidance |
| 6. | Procedure for hearing the application. |
| 7. | Sex Establishment Licensing Policy |

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
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Privacy Impact Assessment

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out?	No
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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	



Application for the GRANT 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




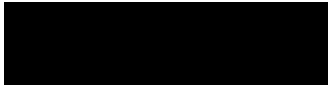
Payments

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.

Application for a Sex Establishment Licence

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

1.	General information (all applicants must complete this section)
	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"/> Are you applying as: (please tick): An individual <input type="checkbox"/> A registered company <input checked="" type="checkbox"/> A partnership <input type="checkbox"/> Please state your trading name: Is this application for: (please tick): Grant of a new licence <input checked="" type="checkbox"/> renewal <input 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:
THE APPLICANT	
2.	Application by an Individual (complete this section only if the application is by an individual)
	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): Surname: Forenames: Maiden name or any other surnames you have been known by: Date of birth: Residential address: Postcode: Position/Role in the business:
3.	Application by a Partnership (complete this section only if the application is by a partnership)
	You must supply information in respect of every partner – where there are more than two partners then please use a continuation sheet Title (please tick): Mr <input type="checkbox"/> Mrs. <input checked="" type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other (please state): Surname: Forenames: Maiden name or any other surnames you have been known by: Date of birth: Residential address: Postcode:
	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): Surname: Forenames: Maiden name or any other surnames you have been known by: Date of birth: Residential address: Postcode:

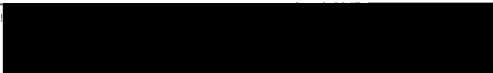
4.	Application by a Registered Company (complete this section only if the application is by a registered company)	
	Registered company name: Southampton Clubs Limited Registration number: 11868376 Address of the company's registered office: 36 Alie Street, London Postcode: E1 8DA	
	Please provide the following details for every director, shadow director and the company secretary – where necessary please use a continuation sheet.	
	Role: Director Title (please tick): Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input checked="" type="checkbox"/> Other <input type="checkbox"/> (please state): Surname: Lines Forenames: Lauren Maiden name or any other surnames you have been known by: Date of birth:  Residential address:  Postcode: 	
	 Role: 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): 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: Postcode:	Email address: Website address:
	Please use my Residential address for correspondence Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
	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.:	Poppleston Allen Solicitors 37 Stoney Street, Lace Market, Nottingham NG1 1LS 

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: Kelly's Bar (to be known as Black Diamond) 35 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: N/A
15.	State the nature of the applicant's interest in the premises, vehicle, vessel or stall (e.g. freehold owner, lessee, sub-lessee etc.) Leaseholder
16.	If the applicant has tenure of the premises other than as freeholder, state: The name and address of the landlord: Glenmore Property Holdings Limited, Wigmore Street, London W1U 2RU The amount of the annual rental: [REDACTED] The length of the unexpired term 20 years The length of notice required to terminate the tenancy 6 months, with a break clause after 10 years.
17.	What is the current use of the premises? Licensed premises
18.	Is there planning permission for use of the premises, vehicle, vessel or stall as a sex establishment? Not necessary – see below 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: Landlord is in the process of obtaining a Certificate of Lawfulness for current operation
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: 2014/02673/015PRD
21.	Is customer access to the premises, vehicle, vessel or stall: Directly from the street? No – entrance is via foyer and corridor (see attached plan) From other premises? 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: Doormen on entrance, SIA registered
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: Challenge 25 in operation.
25.	Give full details of any proposed exterior signage, advertising, window displays etc. at the premises - include photographs, illustrations etc.: An illuminated sign with Black Diamond Gentleman's Club.
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: There is no internal visual from the exterior of the building of the SEV areas. The restaurant is visible from the street but is enclosed and no SEV entertainment is provided in this area. All SEV activities will take place at basement level or inside VIP rooms on the ground floor via a corridor with a door leading to the VIP area. The basement and ground floor VIP areas are not visible to persons outside the venue. There will be a lobby with two doors between the external street and the SEV area at ground floor level. The main SEV area in the basement is not visible from the street.
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: Nude dancing in booths, on stage and VIP rooms
(b)	arrangements for the separation of performers and audience: The stage will be raised and be of sufficient size to keep audience at a sufficient distance. The premises operate a 'no intentional contact rule' whilst performances are taking place with no intentional physical contact between the performers and the customer 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 the performances of sexual entertainment in advance of, or following a performance or the placing of money/tokens into the performers hand.
(c)	what contact, if any is to be permitted between performers and audience will be permitted: No intentional contact to be permitted. See above regarding restrictions.
(d)	where sexual entertainment will take place (e.g. open areas, private booths or both): Open areas and private booths
(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: Door staff (with radio links) will be on duty. The private rooms are not fully enclosed by a door and will be either open or curtained to enable observations by door staff.
(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? All staff employed are asked for a passport or driving licence, evidence of right to work in the UK (if applicable) together with proof of address. This is stored electronically. Salaries and payments to dancers are paid directly, never to third parties.

TYPE OF APPLICATION	
28. Renewal	<p>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?</p> <p>Yes</p> <p>If Yes, give full information here:</p>
29. Variation	<p>If variation of an existing licence is sought, give full details here:</p> <p>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.</p>
30. Transfer	<p>If the application is for transfer of an existing licence, do you enclose the signed consent of the previous licence holder to the transfer?</p> <p>Yes</p>
31. Other information in support of the application	<p>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:</p> <p>Operating schedule to form part of the licence.</p>

MANAGEMENT				
32.	Give details of the person who will be responsible for the day to day management of the business ("the manager"): Full name: Simon Bayfield Residential address: [REDACTED] Postcode: [REDACTED] Date of birth: [REDACTED]			
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: Lauren Lines – 1801 Hewitt Building, 40 Alfred Street, Reading RG1 7LY, DOB: 23/10/1994 (further members of the management team to be appointed in due course and to be confirmed to the Council as persons involved in the management of the premises. 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	16:00	06:00	
	Tuesday	16:00	06:00	
	Wednesday	16:00	06:00	
	Thursday	16:00	06:00	
	Friday	16:00	06:00	
	Saturday	16:00	06:00	
	Sunday	16:00	06:00	
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.			<input checked="" type="checkbox"/>
37.	Payment (all applicants must complete this section)			
	I will pay the application fee for a sex establishment licence by: Debit or credit card <input type="checkbox"/> Cheque <input checked="" type="checkbox"/> Cash <input type="checkbox"/> (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			<input checked="" type="checkbox"/>
	The fee is enclosed			<input checked="" type="checkbox"/>
	Continuation sheets, clearly marked to indicate the question numbers, are enclosed			
	Plans and other documents are enclosed			

39.	Declaration (all applicants must complete this section)	
	<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>	
	An individual applicant (section 2) or all partners (section 3) or the company secretary (section 4) must complete this section	
Signed: Name (please print) Capacity of signatory:	 _____ _____ _____	Dated 27/6/19 _____ _____ _____
Signed: Name (please print) Capacity of signatory:	_____ _____ _____	
Signed: Name (please print) Capacity of signatory:	_____ _____ _____	
Signed: Name (please print) Capacity of signatory:	_____ _____ _____	

Dated: 16 MAY 2019

BLACK DIAMOND

31 – 41 LONDON ROAD,
SOUTHAMPTON, SO152AD

OPERATING POLICIES

DANCER CONDUCT

1. Dancers may never give out any personal information, including telephone numbers, or contact details away from the Club. Dancers may provide a customer with the days and the shifts they or other dancers work at the club.
2. Dancers may never accept telephone numbers, address or any other contact information from any customer, except in the form of a business card. Before leaving the premises, dancers must permanently surrender such cards to a member of management (without copying any information).
3. Dancers are never to be in the company of a customer except in designated dance areas.
4. Dancers must never perform a nude dance except in the designated dance area
5. During the performance:
 - a. Customers must be seated in an upright position against the back of the booth with their hands by their sides before a dancer can commence a table dance.
 - b. Customers must remain so seated during the entire dance.
 - c. Dancers may not touch a customer below the shoulders, with exceptions for exchanging money or tokens for the performance.
 - d. Dancers must not sit on or straddle the customer.
 - e. Dancers must always retain one foot on the floor and not place their feet on the booth seat.
 - f. Dancers may not use language of an inappropriate, suggestive or sexually graphic nature at any time.
 - g. Dancers may not stimulate any sexual act during a performance
 - h. The performances shall not include the use of sex acts or sex articles at any time.
 - i. Performers must not touch the breasts or genitalia of another performer, at any time as part of a performance.
 - j. Dancers shall immediately dress at the conclusion of the performance before leaving the designated area.
6. Customers are not permitted to dance at any time. Customers must remain appropriately clothed at all times. Neither customer nor dancer may remove any of the customers clothing during a performance.
7. There shall be no nudity by the performers in public areas of the premises, unless the Council agreed in writing that the area may be used for performances of sexual entertainment.
8. If a customer attempts to touch, or speak to a dancer inappropriately, the dancer must immediately stop the performance and explain the relevant rules. If necessary, ask for assistance from and cooperate with a floor supervisor, who will take appropriate action, which may include escorting

the customer out of the Club.

9. Dancers are never to engage an act of **prostitution** (the receiving of gratuities or payments for any form of sexual favour or offer as such).
10. Dancers may not accept a customer's offer of payment in return for sexual favours (**solicitation**).
11. Dancers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the dancer has no intention of carrying out the act.
12. Dancers are never to intentionally meet any customers outside of the club.
13. Dancers are never to agree to meet a customer outside the club.
14. Dancers must never engage in any unlawful activity within the club.
15. There shall be no intentional physical contact between performers and customer 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 the performances of sexual entertainment in advance of, or following, a performance.
16. Dancers may never leave the premises during a shift, except in the case of an emergency and then only with the express permission of the duty manager. In that event, dancers must sign out before leaving the premises. If a dancer leaves early, for any reason, the dancer will not be re-admitted during that shift.
17. Dancers will either leave at the end of a shift in a nominated taxi, or a member of security will make every effort to ensure they are escorted to their car or off the premises if requested.
18. At the end of the shift, dancers must not leave the premises until they have been cleared to leave by the manager.
19. No Dancers can perform if they are incapacitated.
20. Dancers must never consume, possess or be under the influence of any unlawful drug or substance.
21. Dancers are never to invite or knowingly permit dancer's spouse, boyfriend, girlfriend nor anyone else with whom dancers are romantically involved to enter the Club.
22. Dancers are required from time to time to participate in promotional activities and offers as designated by the Club manager.
23. Dancers are required from time to time to participate in stage and podium performances as designated by Club staff
24. For the purposes of safety and standards, the Club may employ the use of closed-circuit cameras and radio communications throughout the premises.
25. Any dancer found to be in violation of any of these rules, without exception, will be subject to the disciplinary procedure.

26. Dancers shall receive training upon the four licensing objectives with specific regard to the identification and signs of intoxication and drug usage to enable them to make informed decisions to report incidents and customers to the staff and Managers.

GENERAL HOUSE RULES

1. **For smokers, you must be seen to wash your hands afterwards and freshen up. When you go out to smoke you must wear a knee length coat outside. All dancers must inform the floor supervisor or duty manager before going out to smoke.**
2. You must enter and exit via the correct entrance to the stage for all stage shows and must re dress before interacting with customers.
3. Themed nights will change each month and sufficient notice will be given prior to these nights. Please read all posters in the changing room, as all dancers must take part in these events.
4. All dancers must try to work a minimum of 3 shifts per week and this will include one weekend night. You must book your shifts a week in advance. You cannot just turn up to work; if you do you will be charged a specified additional house fee on arrival. 24 hours' notice needs to be given when cancelling a shift. If no notice has been given, you will be charged double the house fee when you next work.
5. All holiday must be confirmed with Management in advance before booking.
6. Dancers must sign in before entering the changing room; and pay house fee on arrival. House fees will change throughout the year but sufficient notice will be given prior to the change.
7. No mobile phones on the floor, no chewing gum. If you are caught you will be fined £50.
8. All dancers must declare any money on them prior to the start of a shift to management. Any money found in dancers' possession not accounted for will be confiscated.
9. Dancers must always also obey the additional house rules. These are subject to change at any time and post in designated area.

GUIDELINES FOR SAFE OPERATION

1. No Person under 18 shall be permitted and a Challenge 25 policy will be in force only accepting government approved photo ID.
2. No person under 18 will be permitted to work at the premises.
3. No solicitation or prostitution is permitted in the premises.
4. The premises will be subject to the presence of a Duty Management including staff and door supervisors at all times during operation. This includes the regular inspections of public toilet areas.
5. All windows and openings will be blocked from public view from the external areas of the premises
6. The SEV Licence will be clearly on display available for inspection at all times during operations.
7. CCTV will be installed and in operation during the hours of operations as agreed with local Police. Prominent signs will remind customers of the use of CCTV
8. Performers may not stand in the lobby area nor may it be permitted for them to be visible in any way from the public highway.
9. The duty manager will be named on a sign for each shift.
10. All dancers will be subject to the code of conduct (as detailed in separate section). This will include details of a disciplinary procedure to deal with breaches in the code of conduct.
11. All managers, staff and security staff must sign to acknowledge understanding of the 'Code of Conduct for Dancers'. Any breaches should be reported to the Duty Manager immediately.
12. Duty Manager will check documents regarding proof of age and eligibility to work in the UK and retain photocopies in employment files signing and dating each copy, Employment files to include full facial photograph of all dancers, proof of ID e.g. Passport or driving licence, proof of residence and eligibility to work in the UK.
13. Employment files to be retained for 6 months after the employment ends and to be made available to Police and relevant authorities upon demand.
14. The Duty Manager shall not permit any dancer to perform if they are intoxicated through alcohol or drugs.
15. The license holder must retain an incident log (Points A-C) and a separate log for (Points D-E) at the premises to record any of the following:
 - a. Ejections from the premises.
 - b. Breaches of Dance Code of Conduct
 - c. Incidents of Crime and Disorder
 - d. Inappropriate customer behaviour

- e. Any complaint made by public, customer or dancer
 - f. Any disciplinary action taken against dancers this log must include the date; details of staff involved and operational shift when SE licence is in use which will be displayed in the reception area to assist police or council officers inspecting the premises.
16. The duty manager will ensure that the premises operates in accordance with any specific conditions outlined by the SE licence.
 17. Management, security and staff will be asked to sign a declaration statement that they fully understand the dancers and customers codes of conduct and they will actively promote them by informing management of any breaches that they see.
 18. The duty manager will ensure that the appropriate levels of SIA approved door supervisors are present (for the purpose of monitoring the premises).
 19. The duty manager and SIA door staff will actively monitor the licensed area to ensure conditions of the SE licence are upheld and the Dancer and Customer codes of conduct are complied with.
 20. Signs in the entry area will display the customer code of conduct on entering the premises and all patrons will be informed of the code.
 21. Any customer found to be breaching the code of conduct may be safely ejected from the premises and recorded in an incident register.
 22. As a part of the inspection process, all dancers shall be asked to sign a code of conduct which they will be held responsible to adhere to. Any breaches of the code will result in disciplinary procedures.
 23. The dancer's code of conduct will be displayed in the entrance area and customers arriving will be directed to review it.
 24. The licence holder or a member of management will on the next working day after trading inspect the incident log to ensure the quality of the record, and that any action required has been carried out.
 25. The incident log must be available at all times for Police or the local authority to inspect.
 26. The Duty Manager will ensure that all performers/dancers complete the register of attendance for each shift. This register must be available for inspection by the police and the local authority.
 27. Management, Staff and Dancers and Security will be trained and made aware of all conditions set out within the SEV licence.

CUSTOMER CODE OF CONDUCT

1. Customers should be aware that CCTV is in force throughout the premises during operational hours.
This may be reviewed by police and the local authority at any time in line with our statutory obligations.
2. Management reserves the right of admission to the venue.
3. Customers may not touch dancers during a performance.
4. The use of photography is prohibited throughout the premises.
5. Customers may not make lewd or offensive remarks to dancers.
6. Customers may not harass or intimidate dancers.
7. Customers may not ask dancers to perform any sexual favour.
8. Customers must remain dressed and seated during a private dance
9. Customers may not perform acts of masturbation or indulge in any other sexual behaviour
10. No photography or videoing to be permitted on the premises this includes the use of mobile phones
this is restricted to the lobby area only.
11. Any customer failing to adhere to the above will be refused access to the venue, service of alcohol and
exclusion from the premises.
12. Dress code – A strict smart, casual dress code is always expected from customers when visiting black
diamond. No tracksuits, sportswear or hats are permitted inside the venue.
13. A cloakroom service is provided to all customers at a small fee charged at the door.

14. 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.

OPERATIONAL STATEMENT

1. The venue will typically open around 9pm.
2. Dancers will arrive early to avoid contact with customers outside the venue.
3. A member of management will greet the dancers and mark them on the attendance sheet.
4. Dancers will get changed into their work clothes.
5. Door supervisors will greet and judge patrons to see if they are suitable to enter the premises.
6. It is anticipated that the venue will not have more than approximately 65 patrons Thursday - Saturday and 20-30 Sunday - Wednesday.
7. The target clientele will be gentlemen and ladies of 25+.
8. Patrons will be explained the general rules of the club.
9. Patrons entering the venue will pay an entrance fee between £15 - £20. Patrons will meet a waitress on entrance and will be escorted to a table.
10. Dancers can approach patrons once they have a drink to converse and sell private dances starting at £20 for a 3 minute dance and can go up to £400/£600 for an hour.
11. Dances will take place in one of the private booths, VIP suites or public dance areas.
12. There will be a continuous stage show throughout the night. Dancers will take it in turns to dance on the stage.
13. The venue will typically shut at 5 am.
14. Door staff will usher patrons out of the venue and into cabs.

WELFARE POLICY

1. When first starting all dancers will receive an induction to the club which will include:

A full tour of the building.

Awareness of fire exits and procedure.

Dance policy, stage and podium requirements explained.

Code of conduct fully explained.

How and when they are paid.

When they can take breaks.

Who their point of contact is, should they have any personal or work related problems.

2. Details including the following are taken by the duty manager and kept on file for all dancers:

- Full birth name
- Date of Birth
- Current Address
- Copy of ID (either driving licence or passport)

3. Member of management will always be available each shift to listen to any personal or work-related problems dancers may have.
4. Management will take immediate action should a dancer raise concern over inappropriate behaviour by a customer. This could include a warning, or the customer being excluded from the premises.
5. Full dressingroom facilities with lockers will be made available.
6. Dancers will be allowed soft drinks free of charge.
7. Door supervision and management ensure the customer code of conduct is adhered and the dancer's safety and welfare is paramount.
8. A first Aider will always be on site during trading hours.
9. When leaving the premises, a member of the door team or other members of staff can be made available to escort dancers to their cars or taxi within a proximity to the club (no more than 0.5 miles)

EJECTION POLICIES

Cooperative Patrons

Most non-violent ejections are due to unsuitable behaviour or intoxication. In these circumstances, door supervisors will ask the patrons politely to leave the venue.

They will escort the customers to the nearest fire exit. Door supervisors will immediately record any ejections in the incident log.

Non-cooperative Patrons

If a customer refuses to leave the venue, a door supervisor may use reasonable and necessary force; this will be the last resort. 'Reasonable and necessary' equals the amount of force needed to overcome resistance according to a person's physical condition, build and perceived threat.

Reasonable force may be used to eject the customer out of the nearest fire exit. The door supervisors will come back into the venue and immediately record the incident in the log book.

Drug and Violence Policy

Black Diamond will operate a zero tolerance on all drugs and violence related offences.

Those committing serious drug and violent offences will receive a life time ban from the club.

A full drugs policy will be written up in accordance to the inclusive and preventative policies Reading Police have in place.

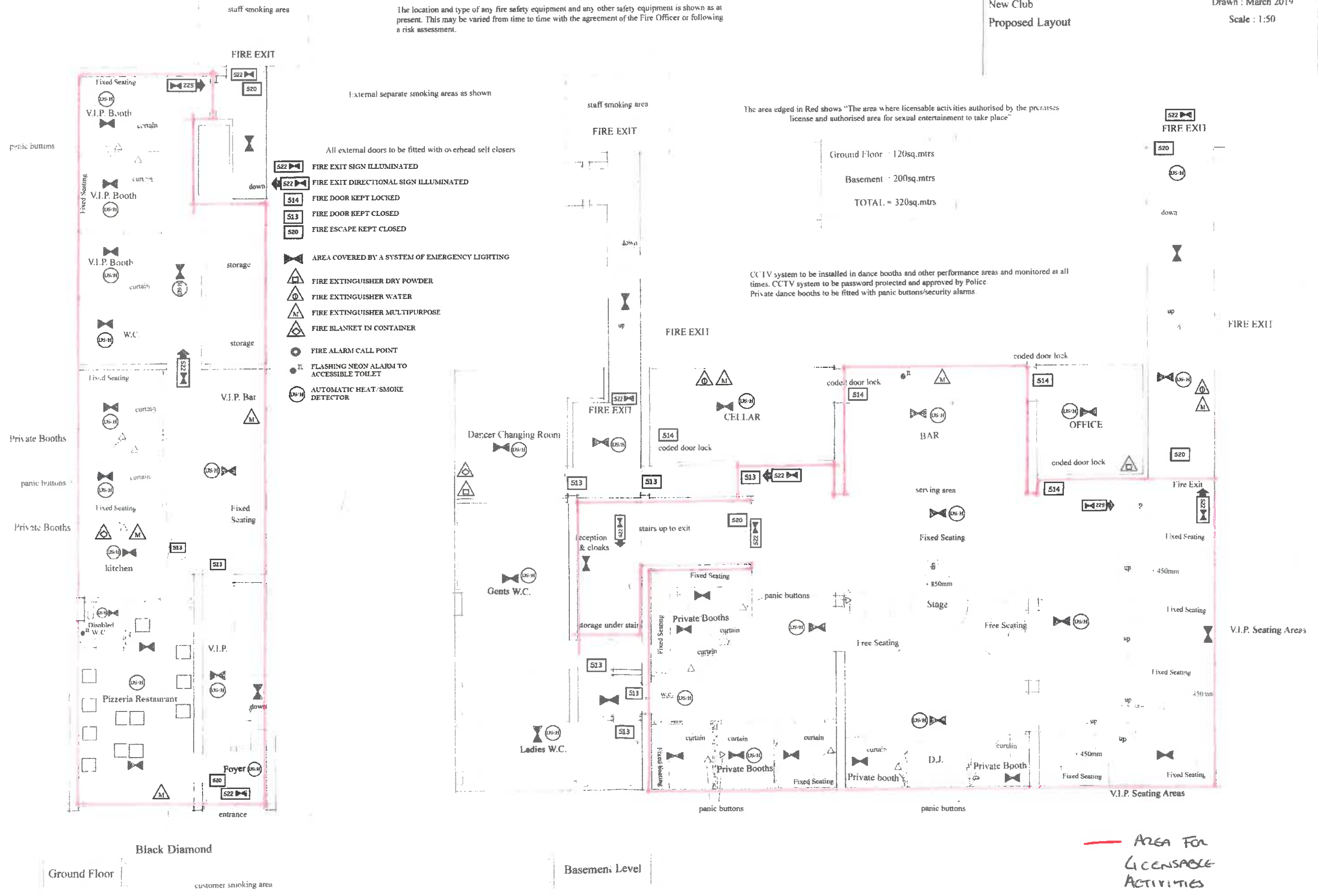
Search Policy

Random searches will be conducted on patrons entering the premises

All bags will be searched.

Random searches will be carried out on dancers and staff.

The location and type of any fire safety equipment and any other safety equipment is shown as at present. This may be varied from time to time with the agreement of the Fire Officer or following a risk assessment.



Cafe
PORTOGELLO

- Homemade Toasted Coffee
- Full Breakfast Menu
- Classical Sandwiches
- Price Range Homogenous
- Pastries & Toasted Sandwiches
- Fire Extinguishers

WIFI

**BLACK
DIAMOND**
— GENTLEMENS CLUB —



From: [REDACTED]
Sent: 29 July 2019 21:42
To: Licensing
Subject: Re: Objection to Sex Establishment Licence/ Sex Entertainment Venue 35-41 London Road

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Yes, I do wish to object to the Sex Establishment licence, I sent an email to say that and when we were talking I had a printed copy of that on the desk. You said you did not need the printed copy.

I am not satisfied that the applicant offers equal opportunities employment, promotes sex equality and can guarantee the safety of both customers and staff in a location that is a crime hotspot, both London Road and Bedford Place have been described in that way by police and the local press. (Crime and Disorder, Public Nuisance)

In fact to-days Echo reports two men charged with injury to another during night in Vernon Walk, which runs beside 51 London Road

There does not seem to be any checking by the authorities re fire escapes, the width of stairs and doors and fire drill details.

With no planning consent to use the basement what checks were made by building control on the alterations and removal of inner walls ? (Public Safety)

At our meeting you did not say that I had to write about particular subjects on this matter but if you tell me what they are I could reply to you to-morrow.

Thanking you

Lorraine Barter

From: McGuinness, Ian on behalf of Licensing

Sent: 29 July 2019 17:50

To: [REDACTED]

Subject: RE: Objection to Sex Establishment Licence/ Sex Entertainment Venue 35-41 London Road

Good Afternoon Lorraine,

Thank you for your email/ representation.

Following our conversation today, I hope the clarification of the condition offered on the licence application assisted you and your concerns relating to this has now been satisfied.

The Sexual Entertainment Venue (SEV) application is different legislation to the Licensing Act application.

One of the points that differs is the objectors name and address are not published unless consent is given.

Your email mentions the alcohol sales and drinking up time. This will relate to the Licensing Act variation application to which I am aware of your representation.

Should you also wish to make representation to the Sexual Entertainment Venue application, could you please highlight your concerns relating to the new application for a Sexual Entertainment Venue.

Kind regards,

Ian

Ian McGuinness

Senior Licensing Officer

Southampton and Eastleigh Licensing Partnership

Southampton City Council

Tele: [REDACTED]

E-mail: ian.mcguinness@southampton.gov.uk

Web: www.southampton.gov.uk/licensing

Post: Licensing - Southampton City Council

PO Box 1767, Southampton. SO18 9LA

From: [REDACTED]

Sent: 29 July 2019 11:12

To: Licensing

Subject: Objection to Sex Establishment Licence/ Sex Entertainment Venue 35-41 London Road

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Objection to Sex Establishment Licence/ Sex Entertainment Venue at Kellys 35-41 London Road

Not being sure of the guidelines for objecting, if they are the same as for an Alcohol Licence I am mainly objecting on the grounds that the wording of the Alcohol Licence gives the impression that the hours requested for that can only be allowed if this place obtains consent for a Sex Establishment.

The hours to serve alcohol until 05.00 with one hours drinking up time and last exit at 06.30 is not acceptable under and opposite blocks of residential flats.

Regarding the sex licence, it says nude dancing , I presume by women, it does not say and it should not be called a Gentleman's Club as this gives the impression that women customers are barred and there will be no male nude dancers.

This is contrary to Sex Equality and Equal Opportunities Employment.

I cannot understand why the notice says objectors need to go to the Licensing Office in person or must write in with on paper objections, as emails are acceptable for all other licensing objections.

My main interest is to attend the hearing and obtain more experience in dealing with such matters, however I do request that this is taken as a serious objection to the use of the premises in basements 35 - 41 , it has not obtained planning consent for any kind of use and I am not convinced that the basement is safe in the structural sense nor fire evacuation properly tested.

Cannot quite understand the rules on secrecy, regarding ones name and address as I have no objection to it being seen by anyone.

Lorraine Barter

42 Harborough Road

Southampton

SO15 2FY



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McGuinness, Ian

From: [REDACTED]
Sent: 30 July 2019 10:58
To: Licensing
Subject: Objection to Sex Establishment Licence at Kellys 35-41 London Road

Follow Up Flag: Follow up
Flag Status: Flagged

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Objection to Sex Establishment Licence at Kellys 35-41 London Road

I am not satisfied that the applicant offers equal opportunities employment, promotes sex equality and can guarantee the safety of both customers and staff in a location that is a crime hotspot, both London Road and Bedford Place have been described in that way by police and the local press. (Crime and Disorder, Public Nuisance)

In fact yesterday Daily Echo reported two men charged with injury to another during night in Vernon Walk, which runs beside 51 London Road.

It is not that one is saying the patrons will be causing ASB but that they could become crime victims in this area.

There does not seem to be any checking by the authorities re fire escapes, the width of stairs and doors and fire drill details. With the installation of padded seats, benches, curtains, even fire proofed this needs to be checked out.

What is the seating and standing capacity of the club ?

With no planning consent to use the basement what checks were made by building control on the alterations and removal of inner walls ? (Public Safety)

With regard to crime I quite figures from Police website : 2019

Recorded crime incidents for June: Bedford Place 36 London Road 44
May 92 in total between both roads
April 32 45
March 35 42
February 65 in total between both roads
January 21 25

I may add more statistics if I have time to do more research later to-day.

Lorraine Barter
42 Harborough Road
Polygon
Southampton
SO15 2FY You may publish my address.

From: [REDACTED]
Sent: 30 July 2019 14:51
To: Licensing
Subject: Objection to SEX ESTABLISHMENT Licence at Kellys 35-41 London Road

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Objection to SEX ESTABLISHMENT Licence at Kellys 35-41 London Road

The location is unsuitable due to the high level of crime in London Road and Bedford Place. The multi storey car park used by visitors to the area is situated between those two roads.

2018

Bedford Place and London Road Crime Incidents from police website.

Dec 90, Nov 90, Oct 85, Sept 69, Aug 77, July 80, June 90, May 65, April 77, March 78, Feb 94, Jan 88.

Lorraine Barter
42 Harborough Road
Polygon
Southampton
SO15 2FY

My own local crime diary is below.

2016

January

2 Report of all night loud music HMO Milton
11 Smashed bottle Kenilworth
13 Smashed glass Kenilworth
15 8 bins knocked over by men from Harborough HMO at 01.10, also 5 over Kenilworth and some Wilton
16 Damaged street sign Kenilworth
18 Smashed bottle Kenilworth
20 Smashed glass Kenilworth
23 Two injured in fight by Junk and stabbed man in Carlton Place
24 Car wing mirror damaged Kenilworth
26 Smashed glass Kenilworth
27 Smashed glass Kenilworth and Harborough
28 Smashed glass Harborough
30 Damaged car wing mirror Wilton
31 Party at 32 Harborough 23.00- 04.30
February
3 Smashed glass Harborough Kenilworth

13 Loud night music from HMO 14 Newcombe
14 Loud night music from 14 Newcombe
16 Smashed glass Kenilworth
17 Smashed bottles Kenilworth and Henstead
18 Smashed glass Devonshire
19. 02.30 Man shouting Harborough
20 Smashed window at Locksmiths London Road
21 Shouting Harborough at 03.30, wing mirror damaged.
25 Three bottles Newcombe and Handel Road
28 04.00 Loud music from car Harborough
29 04.00 Shouts and bins over Newcombe
March
2 Reported burglaries Wilton, Milton, Cromwell and Harborough
5 Bottle Handel Terrace
9 Bottles Harborough ,Devonshire
13 Wall damaged Kenilworth, Urine stains in Henstead, Kenilworth , Bedford Place.
15 Urine stains in Harborough, Henstead, Carlton Place, Vernon Walk
17 Urine stains Henstead, Kenilworth,Devonshire, Vernon Walk
18 Urine stains in Wilton, Lower Banister Street
19 Bottle Devonshire, Urine Devonshire
20 Smashed bottle Kenilworth
21 Smashed bottles Harborough, Kenilworth, Devonshire, Coventry
23 Urine Henstead and Devonshire
24 Urine Henstead and Carlton Place. middle of night shouting from Newcombe
25 Bottle Kenilworth
26 Litter Wilton blown from bins in street
29 Smashed drinking glass Handel Road
31 Girl shouting and banging on front door of HMO 19 Morris 02.00- 10.15 a.m.

April

1 Smashed bottle Fitzhugh alley
2 Smashed bottles Harborough,Devonshire, bottle in Newcombe
4 Smashed bottle Harborough
5 Noisy party at HMO 38 Harborough 02.40 to 04.30 and all night loud live music at HMO 94 Milton.
9 Bottles Devonshire Kenilworth
10 Bottle Harborough and bins knocked over at 04.10 in Holt Road
13 03.20 Visitor banging on front door of HMO 31 Harborough
14 Five beer cans Henstead and smashed bottle Kenilworth
16 Smashed bottles Handel Road and Rockstone Place
17 04.30 Men shouting Newcombe.
18 Wing mirror off and a case off in Henstead
19 Wing mirror damaged Henstead and bottle Devonshire
20 Woman sexually assaulted in Southcoiff Road at 02.00 .Bottle Harboorough
21 Car wing mirror casing missing Harborough
24 Urine stains in Henstead and Vernon Walk Bottle Devonshire
Drug dealer from Morris Road jailed for three years.
26 Cracked car mirror Henstead
27 Missing mirror casing Harborough.

28 Mirror casings off in Henstead and Kenilworth

29 Same in Henstead and Sandhurst, two in Wilton plus take away meal on car.

It must be made clear that that car damage may not have occurred the night before it is seen /reported for diary as we do not out along the same roads every day. All cars have residents parking permits.

Cannot report them to police as we are not the owners /do not know who the owners are.

May

1 Two men attacked Watts park at 02.00

3 Smashed bottle Devonshire

4 Bottles Henstead Carlton Place Handel Road

5 Bottle Sandhurst, smashed bottle Kenilworth, bins knocked over Harborough at 21.30

6 Bin over Harborough

7 Two bottles in Sandhurst, one in Harborough

9 Smashed bottles Kenilworth and Harborough

Car wing mirror cracked Kenilworth

Noisy party in garden at HMO 32 Harborough 23.00 to 05.45

15 Front door knocking by visitors to HMO 31 Harborough at 04.20,04.25, 04.45 and 04.50

16 Smashed bottle Kenilworth

17 Three lots of urine Henstead and smashed car mirror.

18 Damage to top of wall at 52 Wilton

19 All night noisy garden party at HMO 47 Newcombe

25 Smashed bottle Kenilworth

27 Smashed bottle in Wilton.

30 Smashed glass Kenilworth

31 Several urine stand and some vomit stains in Henstead.

June

2 Wing mirror damaged Harborough

3 Tub of bottles thrown around in Morris Road, over 30 smashed on pavement

3 Bins over in Sandhurst, vomit in Morris, bottle , Handel Terrace.

5 Loud music from HMO Harborough 17.30 Saturday and at 18.00 on Sunday.

Loud music from HMO Harborough all afternoon to 17.00

6 Car mirror damaged and car window smashed Kenilworth, urine in Henstead

8 Three lots of urine in Henstead, 5 lots in Carlton Place. Wing mirror casing gone Kenilworth

10 Stabbing at a Milton Road house in the evening.

13 Car broken into in Coventry

17 All night party 23.00 - 05.00 at HMO Newcombe

Strong smell of urine in door of Junk Vernon Walk.

19 Car wing mirror smashed Harborough, bottle in Morris

20 Bottle in Morris

21 Damaged car mirrors Kenilworth and Devonshire

24 Party at HMO Harborough until 09.00 next day and music again in the afternoon

July

1 Car wing mirror damaged Harborough

2 Noise and abuse at 23.30 from HMO Harborough, smashed glass Kenilworth.

9 Bottle and drinking glass Henstead

16 Smashed bottle Kenilworth

18 Smashed bottles Sandhurst
22 Smashed bottle Kenilworth
23 Burglaries in The Dell, Burlington and Newcombe this week.
30 Smashed window in London Road at Vertitas Photographers.

August

2 Smashed window at Fox's London Road
5 Loud music from 16.00 - 21.20 at HMO Newcombe, I went there at 19.15.
6 Wing mirror pulled out, smashed bottle Wilton
7 Bins over Harborough at 23.20
9 Smashed bottles Devonshire and Henstead
13 Urine in Henstead
27 01.30 - 01.45 Girl attacked in Carlton Road area.

September

7 Smashed glass by 90 Degrees, Lower Banister Street
9 Bins over Harborough 01.30 Man climbing in window at HMO Newcombe at 03.30 and 04.30
11 Smashed bottles in Devonshire and smashed wing mirror Kenilworth
12 Urine stains and smashed bottles Henstead
14 At 02.10 I went to HMO Harborough about shouting and loud music.
15 Smashed bottles Wilton Devonshire Burlington
17 Burglary in Milton Road and Burlington
18 Smashed bottles in Fitzhugh cut and smashed wing mirror Wilton
22 Violent male burglars at The Dell, 22.30
23 Smashed bottles Wilton and gas cover Kenilworth
26 Burglary at HMO Harborough in evening
27 Forensics van at Harborough in evening
28 String smell of urine in Vernon Walk by Junk
30 Car wing mirror missing Sandhurst.

October

4 Singing and shouting Harborough 23.30
5 Shouting in Wilton at 03.30
8 All night party at HMO Cromwell Road
9 All night party Cromwell Road HMO
Also loud music from another HMO all afternoon.
10 Smashed bottle in Southampton Street
11 Garden gazebo taken from Henstead during night and put in middle of Harborough.
13 Police vans in Kenilworth
14 Vomit in Carlton Place
15 Heavy armchair dumped and blocking pavement in Milton
17 Smashed drinking glass Carlton Place
Loud music afternoon from HMO Harborough
18 Same.
19 Car wing mirror damaged Kenilworth
21 Smashed glass Harborough
22 Car had two wings mirror casings gone Harborough

Urine stains in Henstead

23 5 loose bottles and 2 smashed, vomit and bin over in Wilton

24 Report of burglary and smashed front doors at Smoke and Mirrors Vernon Walk

26 Police at Kenilworth 15.30

28 All night party at Cromwell (police) noisy party at HMO Harborough (fireworks) after 02.00 from another garden.

29 Bins over and smashed bottles,in Harboorough,vomit Kenilworth and Henstead.

30 3 Bins over and car wing mirror off in Newcombe.

Very noisy night party at HMO Newcombe. Girl attacked during night by Watts Park.

31 3 bins over in Harborough.

November

9 6 bins over in Wilton

14 Smashed glass in Henstead and Devonshire

19 2 lots vomit in Junk doorway

20 Smashed bottles Wilton

Music and loud shouting at HMO Harborough at 22.30

Vomit on van in Henstead

13.00 approx Male crack cocaine addict attacked and robbed an injured elderly female resident at her home in Harborough Road. Police and paramedics attended.

27 Burglary in 20 Kenilworth

Noisy people shouting in back garden HMO Harborough at 00.00.

Report of another burglary in Kenilworth

December

6 Smashed front window at house in Newcombe

17 Noisy night party at HMO Harborough

19 Car windows smashed in Wilton.

26 Car back window smashed in Sandhurst.

30 Break in and 3 inner doors smashed and damaged at HMO Harborough

December 30 2016 Intruders break down 3 doors and cause damage at HMO in Harborough

2017

Jan

17 Awoken twice in night by bins over in Harborough and Newcombe.

19 Wing Mirror damaged in Henstead.

25 Bins over in Morris ,Newcombe. Front door boarded over at house in road The Polygon.

26 Bins over and sign thrown down outside 23 Harborough.

29 04.40 Awoken by 3 men banging on door of HMO in Harborough, lost keys.

Feb

1 Night intruder in our garden in Harborough, also one in Wilton and The Polygon.

2 Smashed window at shop Hooch and Candy Bedford Place.

3 Bins over in Devonshire, Morris, bottle in Kenilworth.

9 Six bins over in Newcombe. Smashed bottles in Rockstone Place.

14 At 03.30 and 04.00 Kicking of door and banging at HMO in Harborough.

16 Smashed bottles Rockstone Place.

18 Police car in Newcombe at noon.

22 Man stabbed at **London Road Carlton Place junction**.

March

2 Daytime Burglary in Newcombe.

6 Smashed bottle in Morris

9 Wing Mirror damaged in Wilton

10 2 police cars at Bedford- Henstead junction

11 Police car in Harborough at 08.15

12 3 bins over in Harborough

13 Wing mirror casing on pavement Henstead

16 Smashed glass in Harborough

20 Smashed car window glass in Morris

27 Police van in Harborough.

27 Vomit in Newcombe

30 Stabbing in Watts Park , arrests in Henstead, London Road, police at Bedford Place, door smashed at Giddy Bridge.

April

1 Bin over outside Harborough HMO, a lot of night street noise in Henstead.

2 More night noise in Henstead.

3 Bins over in Henstead

4 Smashed bottles in Fitzhugh cut and Harborough

6 Bins over Salisbury Street and road barrier at HMO in Harborough.

8 All night party 18.30 -06.00 at HMO in Morris Road, abuse to neighbours. Party in Harborough until 02.00

10 Week-end break in at hair salon London Road.

15 Smashed bottles and bin over Kenilworth

May

4 Customs and Excise raid at HMOs in Kenilworth.

6 After midnight, man attacked in **Vernon Walk alley way**.

Phone smashed at box Henstead.

9 Police at house in Kenilworth. Report of pot plant stolen in Devonshire.

12 Report that man attacked in Vernon Walk has died

15 a lot of litter and smashed bottles Wilton.

16 Smashed bottle Harborough.

22 Wall damaged at Henstead/ Bedford corner

26 Smashed glass in Harborough

27 Police in Newcombe and 2 cars in Wilton

June

Police at 3 Newcombe, smashed front window, man into police car on Morris Road hill.

12 Man shoplifting in London Road Tesco, two men/car Audi searched by police in Wilton.

14 Woman sexually assaulted by two Asian males, London Road.

18 Echo report of knife robbery at cashpoint Bedford Place

22 Police and forensics at HMO corner of industrial estate and in the units in Harborough/Sandhurst roads.

JULY

1 Wilton Ave Men stole computers from students arriving at their HMO. Men live in Shirley, had wiped data so police said "no evidence.

6 04.30 Went to HMO in Harborough re shouting in the garden area.

7 21.45 Went to HMO in Harborough, re guitar and drums in back garden.

- 8 15.30 Spoke about live band in back garden at HMO in Harborough since 13.30
 04.20 Men shouting and very loud music at music in house and garden at HMO , man said was abusive
 Garden party music at HMO in Harborough, went to HMO in Newcombe about day/ night shouting in back garden.
- 10 Daily Echo- Resident of of Newcombe fined £100 , plus Costs surcharge £115 for threatening and abusive behaviour.
 23.50 Shouted at girls playing guitar on flat roof at HMO in Newcombe.
- 12 Reported that student HMO in Morris Road had 6 police visits in one year period.
- 14 23.30 Spoke to HMO in Harborough re music and voices in garden, they went quiet.
 03.00 Went to HMO in Kenilworth re loud music/ party and shouting crown and front garden and road. Noise Abatement notice issued.
- 16 19.15 Went to HMO in Harborough re loud music and man screaming in upper front room.
- 22 Man attacked outside Encore pub in Commercial Road between 23.30 and 01.00 Head and severe neck injuries
- 24 02.35 Shouted at HMO in Harborough re shouting in garden, then at 03.30 man in upper middle room playing TV game with window open.
 Report of two lots of house noise at HMO in Henstead.
- 28 Approx 13.00 Police cars and vans at estate Park Central.
- 30 Woman claimed sexual assault in a taxi or bogus taxi from Bedford Place.
- 31 Daily Echo - Resident of Burlington Road, in court for cannabis, robbery, trespass.
- August
- 1 Police at two HMOs in Newcombe at 11.00
- 3 01.45 Shouted from back window for HMO in Harborough to be quiet.
- 4 Smashed bottle Harborough
- 6 Burglary in Burlington
- 8 23.45 Went to with man from house to HMO in Harborough re loud music noise.
- 8-9 Man broke into Harborough family home, stole computer and Audi keys and car.
- 10 08.10 Burglar stole property in Harborough. Smashed bottle Harborough.
 23.00 Burglary in Newcombe.
- 12 05.00 Burglary in Newcombe. 12.30 Burglary in Newcombe.
- 13 Daily Echo - Hill Lane Man injured in night near Languard Road
- 17 01.50 - 02.50 Noise at HMO in Harborough
 Police at houses in Newcombe
- 21 Man suffered head injury near Buddha Lounge approx 02.00
- 26 Bicycle stolen in Wilton Ave.
- 27 A lot of night time street noise in Henstead
- 28 Last night burglar at HMO in Harborough
- 31 Smashed wing mirror and bottle in Wilton.
- September
- 2 23.45 Man arrested in Milton, 3 police cars and dog, wall and gate post knocked down at house 78.
- 8 Three suspected dealers picked up by Milton cutway.
- 9 Daily Echo - Drug dealing by guests at Guest House, The Polygon.
 03.00- 04.00 Man attacked outside Cafe Parfait
 Burglary in road The Polygon
- 12 Smashed glass in Wilton
- 17 00.08 Man suffered serious head injury at Buddha Lounge

22 22.00 Woman attacked and injured by bag snatcher at bus stop in park opposite library

26 Smashed bottles in Henstead

28 Wing mirror casing off in Milton , near The Dell.

30 22.3 - 19.00 Burglary in Harborough

October

3 Smashed bottle Harborough

4 02.20 - 2.40 Crime incident in Wilton

11 Assault in Rollesbrooke Valley

23.50 00.10 Intruder in Newcombe garden

14 All night noisy parties until 04.30 in 2 HMOs in Harborough.

Wall damaged at 55 Wilton. Smashed glass in Fitzhugh alley, Wilton and Harborough. Bins over in Newcombe.

20 Attempted burglary in Wilton last night

25 Smashed bottles in Harborough.

November

2 Car mirror cover gone in Kenilworth

7 Man in back gardens in Devonshire at 23.00

8 Burglary in Newcombe

15 Notice in Dell about recent sexual assault during night

20 Wall seen kicked down at 44 Wilton

22 Agents post at HMO in knocked over, damaged wall at house next door

23 Afternoon and evening loud music from HMO in Harborough, banged on door at 19.35

December

8 Midnight Four bins knocked over by men going into HMO in Harborough, very loud music at 00.15, went on for 3 hours.

10 Daily Echo - Woman sexually assaulted in Cafe Parfait.

24

Police appeal :

We are looking to identify the man in this CCTV image after a 20-year-old woman was seriously assaulted on Sunday 24 December on London Road.

The incident happened around 2am on Sunday 24 December outside Junk on London Road.

We were called just before 2am to a report of a group of men fighting in the street.

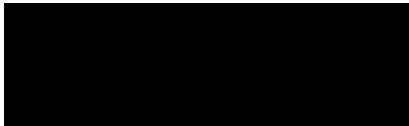
During the melee, a young woman was assaulted and suffered a fractured jaw as a result.



The licensing Team,

We are writing to yourselves as residents in Southampton City Centre and specifically in connection with an application for a SEVL AND PREMISES LICENCE AT KELLY'S BAR , LONDON ROAD, SOUTHAMPTON. We have as residents long been concerned as to the effect alcohol has on crime within our city centre and also concerned as to the number of premises being granted later and later licences within the city centre With this in mind we have long been interested in the stance the committee take and have read the Southampton city council licensing Policy statement .It came as no surprise to us that certain area's within the town had much higher recordings of crime within this statement and 1 of those area's although not the worse was Zone 1 Bedford Place/ London Road .It is with this in mind that we ask the committee to reject the application for the above premises on the basis that the granting of this license in that area and until the time requested will go against the basic licensing principles that Southampton City Council operate namely The Prevention of Crime and disorder, Public Safety and The prevention of public Nuisance, the reasons that we feel this is that from the report we have read Zone 1 is a problem area and the report also states that spike hours occur between 11pm and 4AM exactly the times this new premises will trade in fact later which just does not seem a sensible decision. We appreciate the need for a wide and diverse type of establishment within the town and feel that Southampton is well represented in many area's and the granting of this licence as such is not needed and would only place further resource requirements of the police during the time it's open and from what we understand and read these resources are already at breaking point,

Yours Faithfully,





To Whom It May Concern,

I am a female resident of Southampton who has lived in the city for the last 13 years and was out eating in the London Road area of town over the weekend and was dismayed to see that the site of the old Kelly's Bar , 35 London Road , Southampton.SO15 2AD is subject to a licensing application from a Company called Black Diamond for not only a SEVL license but also a alcohol License until 6.00AM.

I noticed on the forms in the window that if I had any objections to this license being granted that I needed to lodge them with you at this address by the 31st July 2019 and as a female living in this town I would like to do that in the form of this letter.

My personal beliefs are that this type of establishment does not bring any benefit to a city like ours and in fact de-tracts from other businesses investing in the area, we are already served by two of these types of establishment one in the High Street area of town and the other in the above bar area and although as stated above I believe this type of venue has no part in creating a positive image of our city should the council deem that they are required then I would suggest that 2 of them in a city this size is ample and with that in mind should refuse this application for a third venue of this type.

Yours Faithfully,



Received
On
30 JUL 2019
Southampton &
Eastleigh Licensing Partnership

The Licencing Team
Southampton City Council
PO Box 1767
Southampton
SO18 9LA

15th July 2019

Dear licencing Team



I would like to object to the premises licence application and the subsequent SEVL application, both made by Southampton Clubs limited, through Poppleston Allen LLP and to be known as a trading of Black Diamond.

I object on the following grounds

As per the 4 licencing objectives,

- The prevention of Crime and Disorder
- Public safety
- The Prevention of Public Nuisance
- The protection of Children from Harm

I feel this is the wrong location for this style of operation and this area is trying to bring licencing down to a 12-midnight operation, this is to protect the local residents that live in this area and by doing this it protects all of the licencing objectives as above.

As per the process of the SEVL application, Current Planning use must be demonstrated to help protect the 4 licencing objectives and the current government use category for a new Sexual Entertainment Venue premises is a **Sui Generis** use and I believe this current premise does not have this use, I believe it has the old planning A3 use as it used to be a wine bar, therefore I would respectfully ask the committee to reject this application due to the incorrect planning use

Also, the current premises has a planning condition that it is shut by 2am (this condition is in place to protect the 4 licencing objectives), therefore I cannot see how the application can be granted for a 6am.

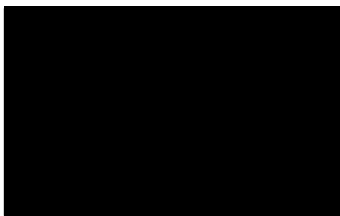
If the committee is minded to grant a premises licence and a sev1 on these premises then I would respectfully ask the committee not to grant past 2am and have a last entry of 12 midnight so it is looking after the 4 licencing objectives and in keeping with what the area is trying to achieve.

Also, there is no indication of what the outside will look like and as this is a very busy shopping area there must be a discrete shop front to protect the 4th licencing objective.

I am not against this type of operation but they have to be in the correct place/area and be licenced correctly with the correct Planning granted and the licencing hours should complement the planning conditions imposed for that site and planning permission.

Yours Sincerely

A large black rectangular redaction box covers the signature and name of the sender.



Received
On
31 JUL 2019
Southampton &
Eastleigh Licensing Partnership

Dear Sir/Madam,

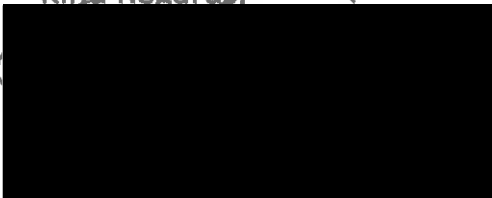
I am writing to you in connection with the Application that has been made for a SEVL License at Kelly's Bar , 35 London Road,Southampton.SO15 2AD.

I would like to formally lodge an objection to this application being granted as a concerned resident of Southampton,.The main basis of my objection to this application is that over the past few years and correctly in my opinion this particular area of Southampton has seen reduced time operating hours for most of the establishment's situated in the London Road area and I for one feel this has been to the benefit of not only the general area but also to the police who in these days of reduced budgets are struggling to police the night time economy as it stands and the granting of new or extended trading hours to any establishment puts a further strain on these resources thus increasing the risk of crime and dis-order with-in the town.

I do believe that the licensing objectives of the town should be not only to provide a good and varied choice of night time economy venues but also not to add to an already crowded market place by increasing trading times in an area that the police can in fact reduce there attention on over the busy weekend periods after most places close by 2am at the latest, this is a policy that has certainly worked in this area and as such should continue with the rejection of this application or should it be granted it should be with alot earlier closing time and a strict policy of no entry after midnight.

I trust you will view my objection as a positive reflection on in fact the sensible policies the board have adopted in this area and an encouragement to continue doing so with this application,

Kind Regards,



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

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:
 - Ensure that the frontage is of a discreet nature
 - 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 Sex Shops

- 6.3. The Licensee shall notify the council of the name, address and date of birth of any manager or employee at the licensed premises at least 7 days prior to commencing employment. The council, in consultation with the police, reserves the right to object to the employment of any person by reason of general unsuitability and/or because of any recorded conviction, reprimand, warning or caution considered relevant in which event the individual concerned shall not be employed at the premises.
- 6.4. The names of any and every employee working on the premises shall be displayed in a conspicuous position on the premises.
- 6.5. No public music or dancing shall be permitted on the premises.
- 6.5.1. No alcohol shall be sold, offered or consumed by either staff or customers on the premises.
- 6.5.2. No facilities to provide or consume food (hot or cold) by members of the public shall be permitted on the premises.

7. Hours of Opening and Closing

- 7.1. Licensed premises shall not, unless approved in writing by the council, be open for the purposes for which the licence is granted on any Sunday, bank or public holiday.
- 7.2. The general permitted hours (unless otherwise varied by the council) for the use of any premises, as a sex shop shall be:
 - 7.2.1. Monday to Saturday inclusive - 0930 until 2000

8. Conduct of the Premises

- 8.1. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
- 8.2. All sex articles and other things displayed for sale, hire, exchange or loan within a sex establishment shall be clearly marked to show the price being charged.
- 8.3. All printed matter offered for sale, hire, exchange or loan within a sex establishment shall be available for inspection prior to purchase and a notice to this effect shall be displayed in a conspicuous position within the premises.
- 8.4. No film or video recording shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Certification and bears a certificate to that effect.

9. Premises Interior and Layout

- 9.1. Any facilities on the premises for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area. The positioning of any playback or viewing equipment shall be approved by the council.

Part Three – Additional Conditions for Premises Operating as Sexual Entertainment Venues

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

- 10.1 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.
- 10.2 The Premises shall be maintained in good repair and condition.
- 10.3 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.
- 10.4 At no time shall performances be capable of being seen from outside of the premises
- 10.5 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.
- 10.6 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.

11. Control of Entry to the Premises

- 11.1 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).
- 11.2 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.
- 11.3 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.
- 11.4 The Licensee will operate a Challenge 21 Policy whereby prospective customers who appears to be aged 21 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.
- 11.5 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.
- 11.6 Prospective customers shall be informed of the House Rules.

12. Advertising

- 12.1 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.
- 12.2 The Licensee shall have regard to the Advertising Standards Authority CAP Code.
- 12.3 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.

13.CCTV

- 13.1 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.
- 13.2 CCTV shall be installed in any private performance areas. Such areas will also be specifically monitored.
- 13.3 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.
- 13.4 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.
- 13.5 In the event of a technical failure of the CCTV equipment the Licensee must report the failure to the Southampton Police Licensing unit.

14.Performers

- 14.1 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.
- 14.2 Performers must remain fully dressed in public areas and in all other areas except while performing.
- 14.3 No personal performances shall be given to customers seated at the bar or to standing customers.
- 14.4 Performers must re-dress when the performance has ended.
- 14.5 Performers must not perform a nude table dance unless in a supervised area and within sight of a floor supervisor.
- 14.6 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.
- 14.7 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.
- 14.8 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.
- 14.9 No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.
- 14.10 Performers must not engage with the customer in any act of, or communication likely to lead to an act of, prostitution or solicitation.
- 14.11 The Licensee is to implement a policy for the safety of the performers when they leave the premises.

15. Customers

- 15.1 Customers must remain seated during the entire performance of a private dance.
- 15.2 Customers must remain fully dressed at all times.

OR at the discretion of the Licensing Authority in individual circumstances the following conditions may be applied:

- 15.3 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;
- 15.4 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.
- 15.5 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.
- 15.6 Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
- 15.7 A policy of random searches of persons entering the premises shall be operated.
- 15.8 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.
- 15.9 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.
- 15.10 The premises shall subscribe to an approved radio system and radios shall be operational at all times the premises is open to the public.

16 External Appearance of the Premises and Public Displays of Information

- 16.1 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.
- 16.2 Any external displays or advertising may only be displayed with the prior approval of the Council.
- 16.3 The prices for entrance and any compulsory purchases within the venue shall be clearly displayed on the exterior of the premises.
- 16.4 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.
- 16.5 Rules for customers shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.
- 16.6 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.
- 16.7 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.

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

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

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

17.1 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.

17.2 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.

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

17.4 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.

17.5 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.

17.6 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.

18 Code of Conduct for Customers

18.1 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.

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

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

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

18.5 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.

18.6 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.

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

18.8 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.

19 Disciplinary Procedure for Performers

19.1 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.

- 19.2 All performers shall sign an acknowledgement that they have received a written copy of the disciplinary procedure and have read and understood its contents.
- 19.3 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.

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

- 20.1 Performers shall be provided with secure and private changing facilities.
- 20.2 All entrances to private areas to which members of the public are not permitted access shall have clear signage stating that access is restricted.
- 20.3 Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.
- 20.4 The Licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work.
- 20.5 Private booths must not be fully enclosed. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.
- 20.6 There must be a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place.
- 20.7 Any private booths shall be fitted with a panic button or security alarm.

21 Record Keeping and Management

- 21.1 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.
- 21.2 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.
- 21.3 Employment records for performers and staff shall be kept for a minimum of 6 months following the cessation of their employment.
- 21.4 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.
- 21.5 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.

22 Dress Code

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

Part Four – Additional Conditions for Premises Operating as Sex Cinemas

23 Film Exhibition

- 23.1 No film shall be exhibited unless:

- It has been passed by the British Board of Film Classification ("BBFC") as a U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the council; or

- The film has been passed by the council as U, PG, 12, 15, 18 or RESTRICTED (18).
- 23.2 If the Licence holder is notified by the council, in writing, that it objects to the exhibition of a film specifying the grounds of objection, such film shall not be exhibited.
- 23.3 The Licence holder shall give at least 28 days notice in writing to the council of any proposal to exhibit any film which has not been classified as specified above. Such a film shall only be exhibited if consent has been obtained from the council in writing and subject to any terms or restrictions contained within such written consent.
- 23.4 When the programme includes a film in the 12, 15 or 18 category, no person appearing to be under the age of 12, 15 or 18 as appropriate shall be admitted to any part of the programme.
- 23.5 If the council does not agree with the category of any film as passed by the BBFC, it may alter the category or prohibit the showing of the film.
- 23.6 Where any notice is given by the council to the Licence holder that it has altered the category of any film, the film shall thereafter be treated as being in the altered category and the conditions application to the exhibition of films in the altered category shall be observed accordingly.
- 23.7 Immediately before each exhibition at the premises of a film (other than a current news-reel) passed by the BBFC, there shall be exhibited on the screen for at least ten seconds and in such a manner as to be easily read by all persons in the auditorium, a reproduction of the certificate of the BBFC or, as regards a trailer, of the statement approved by the BBFC indicating the category of the film.
- 23.8 For a film passed by the council, notices shall be conspicuously displayed both inside and outside the premises so patrons entering can easily read them and which consist of the following wording:

SOUTHAMPTON CITY COUNCIL

(Insert title of film here)

Has been passed by Southampton City Council as

(insert the definition of the category and the category assigned)

- 23.9 Where a trailer is to be exhibited advertising a film passed by the council, the notice shall state:

SOUTHAMPTON CITY COUNCIL

*(Insert the category of trailer here) **trailer advertising (insert the category of the film) film***

- 23.10 Every poster, advertisement, photograph, sketch, synopsis or programme relating to a film (other than a current news-reel) exhibited, or to be exhibited at the premises shall indicate clearly the category of the film.

24 General

- 24.1 No 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 shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

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.

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.



Sexual Entertainment Venues

Guidance for England and Wales

Contents

Ministerial Foreword	4
1. Introduction	5
Definitions	5
Policing and Crime Act 2009	5
The Guidance	5
2. Policing and Crime Act 2009	7
Meaning of Sexual Entertainment Venue	7
Nudity	8
The Organiser	8
Spontaneous Entertainment	9
Premises that are not Sexual Entertainment Venues	9
Amendments to the Licensing Act 2003	10
Consultation with Local People	11
3. Local Government (Miscellaneous Provisions Act) 1982	13
The Appropriate Authority	13
Committee or Sub-Committee	13
Adopting the Provisions	14
Requirement for a Sex Establishment Licence	15
Premises that are Deemed to be Sexual Entertainment Venues	15
Notices	16
Application Forms	16
Single Point of Contact	17
Fees	17
Objections	18
Hearings	18
Refusal of a Licence	19
Relevant Locality	20
Licence Conditions	22
Duration of Licences	23

Appeals	23
Licensing Policies	23
Offences	24
Provisions Relating to Existing Premises	25
The Services Directive	25
4. Transitional Arrangements	27
Transitional Period	27
Existing Operators	27
New Applicants	28
Determining Application Received Before the 2nd Appointed Day	28
Determining Application Received After the 2nd Appointed Day	29
Outstanding Application	29
Existing Licence Conditions	30
ECHR Considerations	31
Changes to licensing policies	32
London	32
Sex Encounter Establishments	32
Hostess Bars	33
Soliciting for Custom	33
Annex A: Guide to Transitional Period and Existing Operators	35
Annex B: Guide to Transitional Period and New Applicants	36

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



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

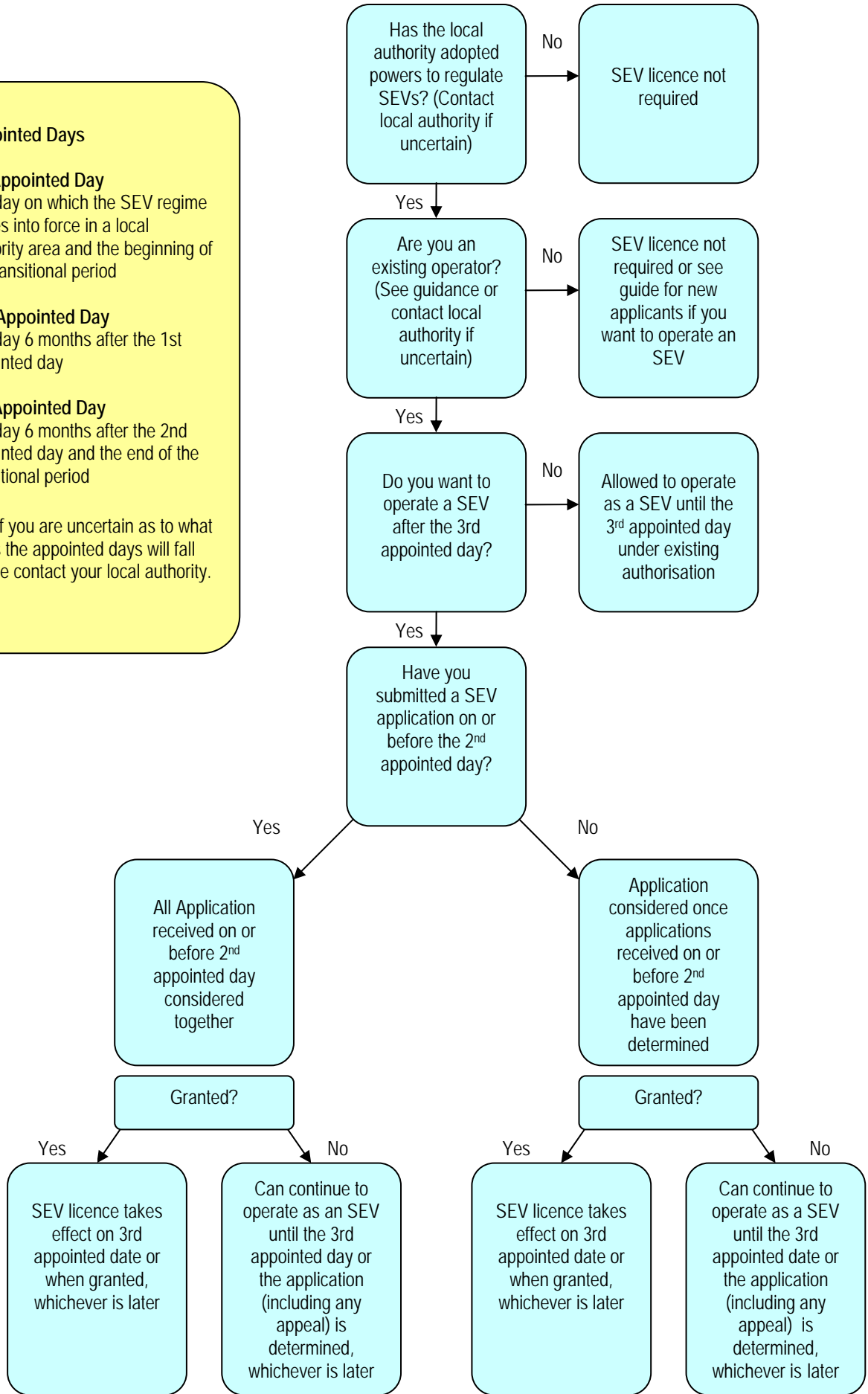
Appointed Days

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

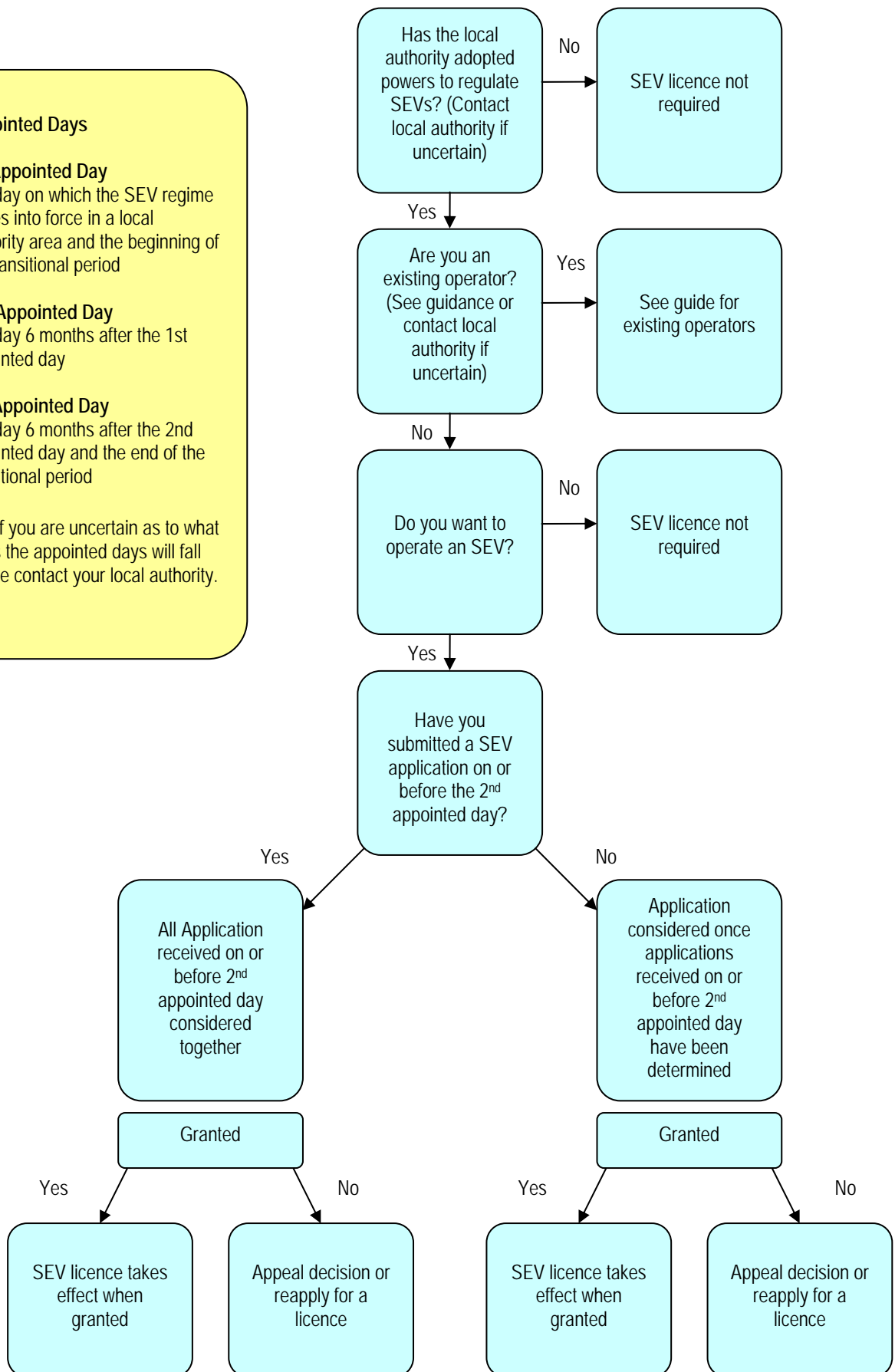
Appointed Days

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.



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.