

Crawley Borough Council

	Report No: PES/20	C
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Report to Licensing Committee

Sexual Entertainment Venues

1. Key Points

- 1.1 The Policing and Crime Act 2009 amends the Local Government (Miscellaneous Provisions) Act 1982 ('LGMPA') and introduces a new category of sex establishment called 'sexual entertainment venue', which will allow local authorities to regulate lap dancing clubs and similar venues.
- 1.2 These new provisions give 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 Licensing Act 2003 and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

2. Recommendations

- 2.1 Licensing Committee Members are recommended to;
 - (a) Make a recommendation to the Full Council that it resolves to apply Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) to the borough of Crawley and specify a date more than one month after the resolution is passed as the first appointed day.and
 - (b) Recommend to the Full Council that it amend the definition of 'Sex Establishment' in its Sex Establishment policy to include 'Sexual Entertainment Venues' so that the policy also applies accordingly.

Copies of the current policy, guidance, fees, forms etc attached as Appendix A

3. Background

- 3.1 Schedule 3 of the LGMPA originally empowered local authorities to licence “sex establishments” which covered sex cinemas and sex shop. However, following the introduction of Section 27 of the Policing and Crime Act 2009 on 6 April 2010, Schedule 3 was amended to include “sexual entertainment venues”.
- 3.2 Crawley Borough Council has adopted Schedule 3, but due to the amendments introduced by Section 27 of the Policing and Crime Act 2009 on 6 April 2010, it is now necessary to readopt Schedule 3 (including the amendments made by Section 27) to be able to licence all sexual entertainment venues as well as sex shops and sex cinemas.
- 3.3 If a local authority has not made a resolution to adopt the provisions introduced by section 27 within one year (5th April 2011) of it coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.
- 3.4 The government has published Entertainment Venues Guidance for local authorities in carrying out their functions under Schedule 3, as amended by section 27. The Guidance covers areas including licences, conditions of licences, appeals, offences and transition arrangements, and parts of it have been reproduced in the body of this report.
- 3.5 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.
- 3.6 A copy of the Guidance for England and Wales and full copy of the amended Schedule 3 LGMPA are attached as **Appendix B**.

4. Sexual Entertainment Venues

- 4.1 The new category of sexual entertainment venues covers “*[a]ny premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer*”. The provisions as to financial gain are widely drawn and cover payments for admission to or membership of a club.
- 4.2 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). Paragraph 2A(14) of Schedule 3 sets out the definition of a ‘display of nudity’.
- 4.3 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
- 4.4 The above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, it 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.
- 4.5 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.
- 4.6 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.
- 4.7 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.
- 4.8 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.
- 4.9 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.
- 4.10 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.

5. Licensing Act 2003 (“LA03”) and sexual entertainment venues

- 5.1 Premises which provide relevant entertainment on an infrequent basis will continue to be regulated under the LA03, 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 event notice issued under Part 5 of the LA03. Any person who provides relevant entertainment on more occasions, more frequently or for a longer period of time than is permitted under the exemption will be operating 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.
- 5.2 Schedule 7 to the 2009 Act amends the LA03 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 LGMPA) 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 LA03. 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 LA03 for those other activities, subject to any exceptions contained in the LA03.
- 5.3 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.
- 5.4 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 LA03. 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 LA03).

- 5.5 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 LA03, for example, to cover the performance of dance. The exemption from requirements of the LA03 for live music or the playing of recorded music which is integral to relevant entertainment does not apply to such venues.

6. Consideration

- 6.1 Although the Council has already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas a further resolution is necessary before the new provisions relating to sexual entertainment venues can have effect in Crawley.

- 6.2 If Crawley Borough Council decides not to adopt the amended Schedule 3, then:

- Schedule 3 without the amendments by section 27 will continue to have effect in Crawley; and
- The Council must consult local people about whether they should adopt these provisions as soon as is reasonably practical after 5 April 2011.

7. Procedure

- 7.1 The procedure for local authorities to adopt Schedule 3 as amended by section 27 is set out in section 2 of the LGMPA.
- 7.2 As Crawley BC has already adopted Schedule 3, it must pass a resolution specifying that the amendments made by section 27 to that Schedule shall apply to the borough 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.
- 7.3 Once the resolution has been passed, a notice of this must then be published 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 local authority's area. The notice should state the general effect of Schedule 3.

8. Sex Establishment Licence

- 8.1 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.
- 8.2 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.

- 8.3 The purpose of the 'waiver' provision would be to avoid bringing in cases such as medical bookshops or sex clinics for which there may be a justification, which the Act is not designed to control and is also a useful means of avoiding the need for the full licensing process in appropriate circumstances.
- 8.4 A proprietor may wish to obtain a waiver for the avoidance of doubt such as a nude scene in a show, a lingerie shop or a cinema with a festival of erotic films.
- 8.5 The local authority will ultimately decide if such an event requires a licence.
- 8.6 An applicant for a waiver is someone who is using the premises as a sex establishment or proposes to do so. The applicant must submit the same basic information as for applications together with such other particulars as the authority may reasonably require.
- 8.7 There is no provision for advertising a waiver or consultation in relation to an application. The authority may delegate decision making on waivers to an appropriate level within the organisation whether this be a sub – committee or head of service and is granted by a waiver notice.
- 8.8 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.
- 8.9 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.
- 8.10 here 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.
- 8.11 Unlike the LA03 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.
- 8.12 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 the 1982 Act for refusing a licence. Objections should not be based on moral grounds/values 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.

8.13 Paragraph 12

- (1) *A licence under this Schedule shall not be granted--*
- (a) *to a person under the age of 18; or*
 - (b) *to a person who is for the time being disqualified under paragraph 17(3) (revoked); or*
 - (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.*
- (2) *Subject to paragraph 27, the appropriate authority may refuse--*
- (a) *an application for the grant or renewal of a licence on one or more of the grounds specified in sub-paragraph (3) below;*
 - (b) *an application for the transfer of a licence on either or both of the grounds specified in paragraphs (a) and (b) of that sub- paragraph.*
- (3) *The grounds mentioned in sub-paragraph (2) above are--*
- (a) *that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;*
 - (b) *that 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;*
 - (c) *that 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.*

(4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c) above.

(5) In this paragraph "the relevant locality" means--

- (a) in relation to premises, 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.*

- 8.14 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.
- 8.15 A decision to refuse a licence must be relevant to one or more of the above grounds.
- 8.16 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.
- 8.17 The Provision of Services Regulations 2009 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.

9. Locality

- 9.1 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 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.
- 9.2 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.

- 9.3 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.
- 9.4 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.
- 9.5 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.
- 9.6 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.
- 9.7 On Monday 20th October 2003, the Licensing Committee had before it a report Number ES/86 – 'Sex Establishment Limitation of Numbers Policy' where the policy set within the report was approved.

Copy of the Limitation policy attached as Appendix C

10. Conditions

- 10.1 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.
- 10.2 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
- 10.3 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.

Copy of the Councils conditions as per Appendix A

10.4 Most sexual entertainment venues will require a LA03 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.

11. Duration of a licence

11.1 Licenses for sex establishments can be for up to one year.

12. Appeals

12.1 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), (numbers or locality) in which case the applicant can only challenge the refusal by way of judicial review.

13. Licensing Policies

13.1 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.

13.2 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.

13.3 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.

Copy of the Limitation policy attached as Appendix C

13.4 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.

14. Offences

14.1 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 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.

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

15. Existing Premises

15.1 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.

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

15.3 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’.

15.4 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.

15.5 Any operator, new or existing who wishes to provide ‘Relevant Entertainment’ at the end of the transitional period will be required to apply for a Sex Establishment licence in the manner set out in Schedule 3 to the 1982 Act.

- 15.6 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.

16. European Convention on Human Rights

- 16.1 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).
- 16.2 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.

17. Changes to Licensing Policy

- 17.1 Many local authorities have already adopted Schedule 3 and have published a licensing policy for sex establishments. Such policies provide a useful guide to potential applicants about whether a particular application is likely to be successful or not.
- 17.2 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.
- 17.3 It is our opinion that the current policy is sufficient to cover any transitional period, as each applicant will need to apply for a sexual entertainment venue licence where individual conditions may be considered on the merits of any such case. The Council’s policy has standard conditions which will be appropriate upon application. However Members may wish officers in the future to investigate specific conditions for sexual entertainment venues for inclusion to the existing report.

18. Ward Members' Views

- 18.1 This matter will be for the consideration of the Full Council.

19. Staffing, Equalities, Financial and Legal Implications/Powers

- 19.1 There are no separate staffing or equalities issue with regards to this report.
- 19.2 Legal implications and powers have already been addressed throughout the report.
- 19.3 Lap dancing, Pole dancing and similar venues are currently licensed under the Licensing Act 2003, and as such, the fees are set by statute. It is proposed that if the Council adopts the relevant provisions of the Policing and

Crime Act 2009, then fees will be set locally, having regard to the cost of implementation, administration and enforcement of the provisions. Applications will be renewed annually and the licence fee will be regularly reviewed to ensure that it covers the cost of the service.

Current fee structure as attached Appendix A

20. Risk Implications

20.1 Any relevant 'risk' implications have been addressed throughout the report.

21. Other Implications

21.1 All local authorities must fulfil their obligations under section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.

21.2 Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key authorities, including local authorities and police and fire and rescue authorities to do all they reasonably can to prevent crime and disorder in their area.

22. Links to the Sustainable Community Strategy and Corporate Plan

22.1 The proposals contained in this report relate to the following key areas of the Sustainable Community Strategy

Community Cohesion	y	Community Safety	y
Young People and Children	y	Health and Well Being	y
Older People	y	The Environment	y
The Local Economy	y	Social Inclusion	y

22.2 The following key principles are applicable:-

(i) Working together	y
(ii) Dignity, respect and opportunities for all	y
(iii) Involving People	y

22.3 The report relates to the following areas in which the Council operates to enhance the town and the quality of life of local people:-

(i) Prosperity	y
(ii) Community	y
(iii) Environment	y
(iv) Value for Money	y

23. Recommendations

23.1 Licensing Committee Members are recommended to;-

23.1.1 Make a recommendation to the Full Council that it resolves to apply Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) to the borough of Crawley and specify a date more than one month after the resolution is passed as the first appointed day to enable the Council to regulate Sexual Entertainment Venues.

and

23.1.2 Recommend to the Full Council that it amend the definition of 'Sex Establishment' in its Sex Establishment policy to include 'Sexual Entertainment Venues' so that the policy also applies accordingly.

Copy of the current policy, guidance, fees, forms etc attached as Appendix A

24. Background Papers

24.1 Schedule 3 to the Local Government (Miscellaneous provisions) Act 1982,
Section 27 of the Policing and crime Act 2009
Sexual Entertainment venues – Guidance March 2010

Contact Officer:- Mike Lyons
Direct Line:- 01293 438698



CRAWLEY BOROUGH COUNCIL

SEX ESTABLISHMENTS GUIDANCE NOTES

Local Government (Miscellaneous Provisions) Act 1982, Part II, Control of sex establishments

These notes have been put together to assist you to make an application for a sex establishment licence. These notes contain information on the Law governing the licensing criteria and details of relevant criminal offences. Also included in these notes are the Council's policies and standard conditions for the grant, transfer, renewal or variation of sex establishment licences.

If you require further assistance or have any questions regarding sex establishment licensing please contact Crawley Borough Council's Licensing Section at the address's and telephone numbers below.

Please address any correspondence to:

**The Licensing Officer
Licensing Section
Environmental and Housing Directorate
Crawley Borough Council
Town Hall
Boulevard
CRAWLEY
West Sussex
RH10 1UZ**

To contact the Licensing Section via telephone please ring;

Tel: (01293) 438698 Fax: (01293) 438604

You can also E-mail the Licensing Section at;

licensing@crawley.gov.uk

On the 1st January 1982 the Local Government (Miscellaneous Provisions) Act 1982, Part II (1982 Act) came into force within the Borough of Crawley. This meant that the provisions under this Act for the control of sex establishments had to be complied with to operate a sex shop or sex cinema. Crawley Borough Council (the Council) enforces a licensing scheme as specified in the provisions of the 1982 Act.

A sex establishment licence can be issued for either a sex shop or a sex cinema.

The paragraphs below have been compiled from paragraphs 2, 3, and 4 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

A Sex Establishment means a sex cinema or a sex shop.

A **sex cinema** is any premises, vehicle, vessel or stall used for the exhibition of moving pictures which are intended to stimulate or encourage sexual activity or acts of force or restraint which are also associated with sexual activity. Such exhibitions will primarily deal with genital organs or urinary or excretory functions.

A **sex shop** can also be a premises, vehicle, vessel or stall used for a business which, to a significant degree sells, hires, exchanges, lends, display or demonstrates **sex articles** or other things 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.

A **sex article** is anything made for use in connection with, or for the purposes of, stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity. This will also include any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as part of a set, for the reproduction or manufacture of any such article. Any recording vision or sound which is concerned primarily with, or is intended to stimulate or encourage, sexual activity; or is concerned primarily with genital organs, or urinary or excretory functions will also be deemed as a sex article..

Under section 6 of the 1982 no person can use within the Borough of Crawley any premises, vehicle, vessel or stall as a sex establishment unless that person holds a valid licence issued by this Council.

Application for the grant, renewal or transfer of a sex establishment licence

To apply for the grant, renewal, transfer or variation of a sex establishment licence an application form (attached as Appendix 2) must be completed in full and returned to the Council's Licensing Section, with any documentation specified on the form, and with the appropriate fee.

Notification to the Police

Within seven days of the submission of an application for the grant, renewal transfer or variation a copy of the application form together with any accompanying documents must be sent to the Chief Officer of Police at the following address;-

Chief Officer of Police
C/o Licensing Section
Horsham Police Station
Hurst Road
Horsham
West Sussex

Publicity

The 1982 Act also requires that within seven days of submitting the application for the grant, renewal, transfer or variation of a sex establishment, the applicant must give notice by publishing an advertisement in a local newspaper circulating within the Borough of Crawley. These notices will be in a form specified by the Council. The Notices for the publicity are attached as Appendix 3. The notice issued by the Council shall be displayed on the premises. This notice must be displayed for 21 days beginning with the date of application. The Notice must be clearly visible and in a place where the public can conveniently read it.

Checks

The Council on receiving an application for the grant, renewal or transfer of a sex establishment licence will conduct checks with the Police and any appropriate agencies.

Fees

(Effective from the 4th January 2011)

For an application for the grant, renewal or transfer of a sex establishment licence, the Council requires a fee. A scale of fees and charges is laid out below.

Application fee:	£8,516.90
Renewal fee:	£3,562.20
Transfer fee without the need for a Committee Meeting:	£65.60
Transfer fee with a Committee Meeting:	£244.50
Variation fee without the need for a Committee Meeting:	£61.40
Variation fee with a Committee Meeting:	£244.50

If a licence is lost or destroyed a duplicate licence must be obtained from the Council and charge for that duplicate licence will be made.

Duplicate Licence	£29.90
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The Council, in processing an application for the grant or renewal of a sex establishment licence incurs costs for administration. If an application is refused then these costs will be deducted from the application or renewal fee and the remainder will be refunded to the applicant.

This administration fee is £170.00

Objections

Any person can object to the grant, renewal, transfer or variation of a sex establishment licence, and such objections will be taken into account when the Council decides whether or not to grant the licence. In order for the Council to consider an objection, it must be made in writing, stating in general terms the grounds of the objection. The objection must be received within 28 days of the date of the application.

Where an objection is received the Council will give written notice of it to the applicant, and indicate the grounds. The Council will not supply the applicant with the objector's name and address.

The Council will also have regard to any comments or observations made by the Police, Fire Authority, Environmental Health, Building Control when considering an application for the grant, renewal, transfer or variation of a sex establishment licence.

Issue of licence

If an applicant or Licensee is successful with an application for the grant, renewal, transfer or variation then a licence will be issued.

Conditions

The Council has powers to prescribe standard conditions to be attached to a Licence, and these conditions are attached as Appendix 1 of these notes. Please note that the Council can vary or add to these standard conditions if it thinks it needs to.

Renewal

The licence when granted will be valid for one year. Before the application is due to expire a reminder letter and renewal application form will be sent to the licensee. Once a renewal application has been received the licence will continue until the Council has made a decision or the application is withdrawn.

Transfer

A licence can be transferred to another person(s) or company. The transfer application will be dealt with in the same way as an original application. If an application for the transfer of a licence has been submitted the licence will remain in force until the Council has made a decision or it is withdrawn.

Variation

If the licensee wishes to vary any part of the licence, including conditions, an application must be submitted, with the fee. The notice requirements for variation applications are as specified above. On an application for variation of a licence, the Council may also impose terms, conditions, and restrictions or amend any conditions deemed necessary and reasonable.

Display of Licence

When a Licence is granted, that licence must be displayed in a clear and visible position inside the premises and must be made available for inspection by an Authorised Officer of the Council or a Police Constable. A copy of the licence will be sent to the Chief Officer of Police.

Persons under 18 years

The Licensee must ensure that no person under the age of 18 years shall be permitted to enter the licensed areas of the establishment, and that no person under 18 years is knowingly employed in the business of the establishment. If the Licensee is found guilty of an offence relating to these restrictions he/she shall be liable on summary conviction of a fine not exceeding £20,000.

Transmission and cancellation of a licence

In the event of the death of the licensee the licence will be deemed granted to the personal representative of the licence holder. The licence will stay in force until the end of the period of 3 months beginning with the date of death, and then shall expire. If the Council deems it necessary, it may decide to extend the period of 3 months for the purposes of winding up the deceased's estate.

The Council may, at the written request of the holder of a licence, cancel the licence.

The Licensing Committee

If any concerns, objections are received by the Council or additional conditions proposed, the application along with a report will be submitted to the next available Licensing Committee. At this meeting the Committee will review the application along with any accompanying documentation.

The Committee will then hear from specified objectors. The Objectors will only be permitted to address the committee if they have submitted a written objection within 28 days of the publication of the application to grant, renew, transfer or variation. The Objector will also only be permitted to keep to the general terms of the objections as stated in their written documents.

The Police, Fire Authority and the Council's, Environmental Health and Building Control Departments will be given the option to view any concerns, observations or objections. They may also submit proposed extra conditions arising from the nature of the premises, location, or any other reasonable cause for the Committee's consideration.

The applicant or licensee will be permitted to address any point made. The applicant or Licensee can also request an adjournment of the Committee to gather further information to answer any points raised. A time scale for this adjournment will be arranged at the meeting in consultation with the Chair of the Committee, Members and Officers of the Council.

On hearing all the comments regarding the application and after viewing all of the application documentation, the Committee members will make a decision. If the Committee refuses to grant, refuses to renew or refuses to transfer or vary the licence then the full reason will be explained. The Council will also write to the applicant or licensee within 7 days stating the full reasons for that decision.

If the Council suspects that there has been a breach of conditions imposed on a licence, or that an offence under the 1982 Act has been committed, the relevant licensee may be required to attend a Committee meeting to discuss the allegations.

Appeals

If an application for the renewal, transfer or variation of a licence is refused by the Council, the applicant or Licensee has a right of appeal to the Magistrates' Court. Appeals must be made within 21 days of the original decision.

An applicant or Licensee aggrieved by the imposition of any terms, conditions or restrictions on a licence may also appeal to the Magistrates' Court within 21 days of the decision.

However if an application for the grant or renewal of a sex establishment licence is refused, or a licence is revoked, on any grounds specified under paragraphs 12 (1), 12 (3) (c) or 12 (3) (d) of Schedule 3 of the 1982 Act, there is no right of appeal.

Paragraph 12 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982

"12 (1) A licence under this Schedule shall not be granted -

- (a) to a person under the age of 18; or
- (b) to a person who is for the time being disqualified under paragraph 17 below; or
- (c) to a person, other than a body corporate, who is not resident in the United Kingdom 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 the United Kingdom; or
- (e) to a person who had, 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 was made, unless the refusal has been reversed on appeal.”

A Local Authority can refuse to grant or renew a licence on the grounds

“12 (3)

(c) that the number of sex establishments 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;

“(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.”

Paragraph 17 of Schedule 3 of the 1982 Act - Revocation

If a licensee has a sex establishment licence revoked for any reason then that person will be disqualified from holding or obtaining a licence in the Borough of Crawley for a period of 12 months beginning with the date of revocation.

Appendix 1

CRAWLEY BOROUGH COUNCIL

REGULATIONS MADE BY CRAWLEY BOROUGH COUNCIL UNDER PARAGRAPH 13(1) OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1982 PRESCRIBING STANDARD CONDITIONS FOR ANNUAL LICENCES FOR SEX ESTABLISHMENTS EFFECTIVE FROM 28th JANUARY 2002

- NOTES**
- (i) Except where the context demands otherwise the singular includes the plural and masculine includes the feminine.
 - (ii) Nothing in these rules shall be construed as interfering with (i) the discretion of the licensee or his representative regarding the admission of any person or (ii) the need to strictly comply with all relevant statutory requirements.
 - (iii) These rules are divided into seven Parts as follows:
 - Part I - General
 - Part II - General Rules relating to management, conduct
 - Part III - Fire and safety conditions
 - Part IV - Other Safety Rules and Rules relating to sanitation and noise
 - Part V - Sex shops.
 - Part VI - Sex cinemas.
 - Part VII - Larger sex cinemas, or where there are special circumstances.
 - (iv) In these rules all references to a British Standard (BS) shall be deemed to refer to the current standard.

Disabled People

It is the policy of the Council that there should be access and facilities for disabled people at sex establishments. Licensees are therefore, encouraged to provide such facilities to enable the admission of disabled people and are reminded of the duties imposed by the Disability Discrimination Act 1995. To this end Council officers will be pleased to discuss and advise on the best ways to achieve this.

PART I GENERAL

Definitions

1. In these rules, unless the context otherwise requires;

“Approval of the Council” or “Consent of the Council” means the approval or consent of the Council in writing.

“Approved”, “accepted”, or “permitted” means approved, accepted or permitted by the Council in writing.

“Approved arrangements” means the arrangements of the premises, fittings, installations and all other things in connection with them as approved by the Council.

“Council” means Crawley Borough Council.

“Escape lighting” (safety lighting) means lighting, obtained from a source independent of the general supply for the building, provided to assist the public and staff to leave the premises without the aid of normal lighting.

“File exhibition” has the meaning described in Section 21 of the Cinemas Act 1985.

“Licensee” means the holder of a sex establishment licence.

“Non-combustible” material means material which is deemed to be non-combustible when tested in accordance with the provisions of British Standard 476: Part 4, or such other material or combination of materials as the Council accepts as being non-combustible for the purpose of these rules.

“Officer” means any person authorised in writing by the Council. (This may include officers of West Sussex Fire Brigade).

“Premises” means any premises within the Council area licensed as a sex establishment and includes all installations, fittings and things in connection with the sex establishment.

“Sex Establishment”, “Sex Cinema”, “Sex Shop”, and “Sex Article” shall have the meanings ascribed to them in the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982.

Dispensation or modification of rules

2. (a) These rules may be dispensed with or modified by the Council in any special case.
- (b) Where in these rules there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.
- (c) If the licensee wishes any of the terms of the licence to be varied an application must be made to the Council.

PART II

GENERAL RULES RELATING TO MANAGEMENT, CONDUCT, ETC

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|--|----|--|
| Exhibition of Licence | 3. | The licence or a clear copy shall be prominently displayed at all times so that it may be readily and easily seen by all persons using the premises. |
| Responsibility of Licensee | 4 | (a) The licensee shall take all reasonable precautions for the safety of the public and employees and except with the consent of the Council, shall retain control over all portions of the premises.

(b) No poster, advertisement, photograph, sketch, synopsis or programme shall be displayed by or on behalf of the licensee at the licensed premises or at any other public place except in accordance with the Town and Country Planning (Control of Advertisements) Regulations 1992 or any Order amending or replacing them.

(c) The premises may not be used under the terms of the licence unless and until any necessary permission and/or consents have been obtained pursuant to the Town and Country Planning Act 1990 and the Building Act 1984 or any legislation amending or replacing them. |
| Persons in charge of Licensed Premises | 5 | (a) The licensee or some responsible person over 18 years of age nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection by a police officer or an officer authorised in writing by the Council.

(b) The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge must have a good knowledge and understanding of these conditions, a copy of which must be held on the premises.

(c) A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.

(d) All members of staff shall be easily identifiable as such. If required by the Council in writing the licensee shall ensure that during the hours the premises are open for business every employee or person working in the licensed premises wears a badge of a type approved by the Council indicating his name and that he is an employee or person working in the premises. |
| Conduct of Premises | 6 | (a) The licensee shall maintain good order in the premises.

(b) The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council. |

- (c) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used for prostitution.

NOTE: Soliciting includes the distribution of leaflets.

- (d) No person under the age of 18 shall be admitted to any part of the premises which is licensed and used as a sex establishment or be employed in the business of the sex establishment.
- (e) No poster, photograph, sketch, painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display such poster, photograph, sketch, painting, advertisement or display shall be removed or completely obscured from sight.

Doorway
Opening,
windows etc.

- 7 (a) The entrances to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.
- (b) Windows and openings to the premises other than entrances shall either be obscured or with the consent of the Council shall have suspended behind them, in a position and at an altitude approved by the Council, opaque screens or blinds of a type and size approved by the Council.

Change of Use

- 8 No change of use of any portion of the premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. This includes a change from one class of sex establishment (e.g. a sex shop) to a different class of sex establishment (e.g. a sex cinema)

Alterations

- 9 No alterations (including temporary alterations) shall be made to the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.

Where works necessitate the premises being closed for a period of time, the premises shall not re-open for the purpose of the licence, until the licensee has been notified in writing by the Council that the Council is satisfied that the work has been satisfactorily completed.

PART III - RULES IN RESPECT OF FIRE AND SAFETY CONDITIONS

Maintenance 10 The approved arrangements shall be maintained at all times in good order, repair and condition.

Overcrowding 11 (a) Overcrowding shall; not be permitted in any part of the premises.

(b) The licensee shall maintain a register in a form approved by the Council indicating which staff are on duty at any time whilst the premises are in use under this licence. This register shall be produced immediately on request by a police officer or an authorised officer of the Council.

NOTE: The register will be used by police officers or authorised officers of the Council to assist in deciding how many members of the public are present on the premises at any given time. It is essential therefore, that the register is properly maintained at all times and that it is readily available for inspection.

(c) The licensee shall ensure that any accommodation limit specified on the licence is not exceeded and shall at any time whilst the premises are in use under this licence be aware of the precise number of patrons currently on the premises. This information shall immediately be divulged on request by a police officer or an authorised officer of the Council.

Maintenance of means of escape 12 (a) All exit routes shall be maintained with non-slip and even floor and step surfaces and be free of trip hazards at all times. Such exit routes shall be unobstructed and available for immediate use at all times.

(b) All exit doors shall be available for immediate use, without use of a key or similar fastening, the whole time the public are in the premises. Only fastenings that have been approved by the Council in writing may be provided on such doors.

(c) All fire doors shall be maintained effectively self-closing, and not wedged open.

(d) Any removable security fastenings approved by the Council shall be removed from the doors prior to opening to the public. All such fastenings shall be kept in a position approved by the Council during the whole time the premises are in use.

Curtains, decorations etc. 13 (a) Where approval is given for curtains to be used, the curtains shall at all times be fire resistant. Curtains shall be arranged so that they do not obstruct EXIT notices and fire extinguishers or other fire fighting equipment.

(b) Curtains where permitted across doors shall be in two halves; on a free running rail to enable them to be parted easily. Such curtains shall have a clearance of at least 75mm between the bottom of the curtain and the floor.

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| Fire Alarms | 14 | Any fire alarm system shall be checked monthly to ensure that it is fully operational. In addition any system shall be serviced yearly by a qualified engineer. All results of such testing must be recorded in a log book to be retained on the premises. |
| Fire Fighting Equipment | 15 | <p>(a) All fire extinguishers and fire fighting equipment shall be checked yearly by a competent person and the test date recorded on the equipment, or in the case of hose reels and sprinkler systems the test results shall be recorded in a log book retained on the premises.</p> <p>(b) Any extinguisher discharged shall be replaced or recharged immediately.</p> |
| Outbreak of Fire | 16 | The Fire Brigade shall be called to any outbreak of fire, however slight. Suitable notices shall be displayed indicating how the Brigade may be summoned. |
| Cleansing of Ventilation Ductwork | 17 | <p>(a) Filters within kitchens serveries and grill extract systems shall be cleaned daily. The associated extract ductwork shall be thoroughly cleaned and degreased at regular intervals.</p> <p>(b) The ventilation system(s) shall be maintained in a clean condition and full working order.</p> |

PART IV - OTHER SAFETY RULES AND RULES RELATING TO SANITATION AND NOISE

- | | | |
|---|----|--|
| Sanitation | 18 | <p>The licensee shall ensure that adequate sanitary accommodation is available in the premises for the free use of staff and for the free use of both staff and members of the public in premises which are used as sex cinemas and in particular shall:</p> <ul style="list-style-type: none">(a) maintain each sanitary convenience in clean and efficient order;(b) ensure that any room which contains a sanitary convenience is suitably and sufficiently lighted and ventilated and is kept clean.(c) No alterations or additions to the approved heating system shall be made without the written consent of the Council. |
| Electrical, Gas and Mechanical Ventilation System | 19 | <p>No alterations shall be made to any part of the electrical, gas or mechanical ventilation systems without the written consent of the Council.</p> |
| Gas and Electricity Meters | 20 | <ul style="list-style-type: none">(a) Gas and electricity and any other mains intake enclosures shall not be used for any other purpose (e.g. storage).(b) Where meters are not in an enclosure the meters shall not be obstructed and shall be available for immediate access. |
| Paraffin and Mineral Oil | 21 | <p>Paraffin or other mineral oil shall not be used in any lamp, stove or other appliance in the premises.</p> |
| Noise and Vibration | 22 | <ul style="list-style-type: none">(a) The licensee shall ensure that no noise shall emanate from the licensed premises or vibration be transmitted through the structure of the licensed premises which gives rise to a nuisance to the occupiers of premises in the vicinity of the licensed premises.(b) Without prejudice to the generality of this condition the licensee shall ensure that no form of loudspeaker or sound amplification equipment is sited on or near the exterior of the licensed premises or in or near any foyer, doorway, window or opening to those premises. |

NOTE: The licensee must ensure that appropriate measures are taken to prevent any nuisance which may be caused by the operation or use of ventilation or other equipment.

PART V SEX SHOPS

Goods available in Sex Establishments	23	All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.
	24	All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the sex establishment.
	25	No film or video shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
Viewing of films and listening to sounds	26(1)	No facility shall be provided in a sex shop for any member of the public, with or without charge to:- <ul style="list-style-type: none"> (a) view any television broadcast, the replaying of any video tape, DVD disc, Laser disc or film. (b) hear any sound broadcast, tape, CD, Mini Disc, MP3 or other like matter.
	26(2)	The Licensee or person in charge may view, on the premises, any returned or defective video tape, DVD disc, Laser disc, film, tape, CD, Mini Disc, MP3 or other like matter, but only for the purposes of establishing whether there is any fault or defect in the condition of that item.
Music, dancing or other entertainment	27	No music, dancing, or other entertainment whether of a like kind or not shall be provided or permitted.
Refreshments	28	No refreshments of any kind shall be served to customers on nor shall any facilities for the taking of such refreshments shall be provided upon the licensed premises.
Display of Indecent displays	29	The Licensee shall not display in any position visible to persons outside the premises any matter, which does not comply with the Indecent Displays (Controls) Act 1981.

PART VI SEX CINEMAS

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|-----------------------------------|----|--|
| Display of Tariff of Charges | 30 | There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position which will cause the notice to be obscured. |
| Seating | 31 | <p>(a) The premises shall not be used for a closely-seated audience, except in accordance with plans approved by the Council.</p> <p>(b) No article shall be attached to the back of any seat which would either reduce the clear width of seatways or cause a tripping hazard or obstruction.</p> <p>(c) A copy of the approved seating plan(s) shall be kept available at the premises and shall be shown to Council officers on request.</p> |
| Standing and Sitting in Gangways | 32 | <p>(a) No person shall be permitted to:-</p> <p style="margin-left: 40px;">(i) Sit in any gangway; or</p> <p style="margin-left: 40px;">(ii) Stand in any gangway which intersects the seating; or</p> <p style="margin-left: 40px;">(iii) Stand or sit in front of any exits</p> <p>(b) Waiting and standing shall not be permitted except in areas approved in writing by the Council; and subject to the conditions specified in such approval.</p> |
| Wheelchairs | 33 | <p>Wheelchairs and similar equipment shall be allowed within the premises in accordance with the terms of any consent issued in writing by the Council.</p> <p>NOTE: In addition to the duties imposed by the Disability Discrimination Act 1995, it is the Council's policy that wherever possible there should be proper access for disabled people including wheelchair users. Consequently the Council will grant the consent required under rule 35 whenever it may do so without risk to persons using the premises.</p> |
| Special Risks and Special Effects | 34 | Any activity which involves special risks, (e.g. use of firearms), and special effects, (e.g. lasers, dry ice and smoke machines, strobe lighting, real flame, pyrotechnics), or the bringing onto the premises of any explosive or flammable substance is strictly prohibited. |
| Minimum lighting | 35 | <p>The level of normal lighting in the auditorium shall be as great as possible consistent with the effective presentation or exhibition of the pictures.</p> <p>NOTE: At premises licensed by the Council for film exhibitions, the level of illumination maintained in the auditorium during the showing of pictures will be regarded as satisfactory if it complies with the standards specified in the current edition of British Standard Code of</p> |

Practice C.P. 1007 Maintained Lighting for Cinemas published by the British Standards Institution.

Film Categories	36	The categories U, PG, 12, 15 and 18 have the following effect:-
	U	Universal - suitable for all
	PG	Parental Guidance. Some scenes may be unsuitable for young children.
	12	Passed only for persons of 12 years and over
	15	Passed only for persons of 15 years and over
	18	Passed only for persons of 18 years and over
	Restricted (18)	Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club
		The addition of (Crawley Borough Council) after the category means that the film has been passed by the Council for exhibition in the Borough of Crawley in the category shown.
Exhibition of films	37	No film shall be exhibited at the premises unless: <ul style="list-style-type: none"> (a) it is a current news-reel; or (b) it has been passed by the British Board of Film Classification 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 (c) it has been passed by the Council as a U, PG, 12, 15, 18 (Crawley Borough Council) or RESTRICTED (18) (Crawley Borough Council) film.
RESTRICTED (18) films - Council's consent	38	Films in the RESTRICTED (18) category may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.
Unclassified films	39	Not less than twenty-eight days notice in writing shall be given to the Council of any proposal to exhibit any other film which has not been classified as specified in rule 39 or 40 above. Such a film may only be exhibited if the Council's prior written consent has been obtained and in accordance with the term of any such consent.
Age Restriction Notice	40	When the programme includes a film in the 18 category no person appearing to be under the age of 18 shall be admitted to any part of the programme. The licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms: PERSONS UNDER THE AGE OF 18 CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME.

NOTE: Where films of different categories are shown the notice shall refer to the oldest age restriction.

Category notices

41 Immediately before each exhibition at the premises of a film (other than a current news-reel) there shall be exhibited on the screen for at least 10 seconds in such a manner as to be easily read by all persons in the auditorium:-

- (a) For a film passed by the British Board of Film Classification - a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board.
- (b) For a film passed by the Council - a notice in the following form without the addition of any other words:-

CRAWLEY BOROUGH COUNCIL
(Here insert title of film)
has been passed by the Crawley Borough Council (here insert the definition of category and the category assigned)

Provided that as regards a trailer advertising a film the notice shall be in the following terms:-

CRAWLEY BOROUGH COUNCIL
*.....(.....) trailer advertising + film
(*Here insert the category of the trailer)
(+Here insert the category of the film)

Objection to Exhibition of a film

42 No film shall be exhibited at the premises:-

- (1) which is likely:-
 - (a) to encourage or to incite to crime; or
 - (b) to lead to disorder, or
 - (c) to stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex, or
 - (d) to promote sexual humiliation or degradation of or violence towards women
- (2) the effect of which is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely to see it; or
- (3) which contains a grossly indecent performance thereby outraging the standards of public decency

If the licensee is notified by the Council in writing that it objects to the exhibition of a film on any ground, such film shall not be exhibited.

Posters, Advertisements etc	43	Every poster, advertisement, photograph, sketch, synopsis or programme of, or relating to a film (other than a current news-reel) exhibited or to be exhibited at the premises, which is displayed, sold or supplied anywhere by or on behalf of the licensee shall indicate clearly the category in which the film has been passed for exhibition.
Display of Indecent displays	44	The Licensee shall not display in any position visible to persons outside the premises any matter, which does not comply with the Indecent Displays (Controls) Act 1981.
Flammable Films	45	No flammable films may be upon the premises without the prior consent of the Council in writing.
Additional Conditions for "Club" Cinemas (Showing Films in the Restricted 18 Classification)	46	<p>(i) No club showing films in the "restricted 18" category may operate in a multi-screen complex whilst persons under 18 are being admitted to any performance in the complex unless the Council's written consent has first been obtained.</p> <p>(ii) When the programme includes a film in "restricted 18" category the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms.</p>

CINEMA CLUB - MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME

(In case of a multi-screen complex where consent has been granted the notice shall specify the particular part of the premises in which films in the "restricted "18" category are being exhibited).

- (iii) All registers of members and all visitors' books of their guests shall be available for immediate inspection by the Council's Officers during any performance, or at any other reasonable time.
- (iv) Tickets shall in no circumstances be sold to persons other than members.
- (v) No persons under 18 years of age shall be employed in any capacity at licensed premises which are operating as cinema clubs.
- (vi) Subject to prior written consent by the Council, a subscription may entitle the club member to attend other clubs under the same management.
- (vii) Membership rules for club cinemas shall include the matters set out in Appendix A, be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.

PART VII

LARGER SEX CINEMAS, WHERE THERE ARE SPECIAL CIRCUMSTANCES

*Larger premises will usually be taken to mean premises having a maximum limit in excess of 250 persons

Attendants -
Numbers in
Cinemas

47. (a) In the case of cinemas which are not equipped with a staff alerting system the number of attendants on duty in any zone where customers are present shall not be less than one for every 250 persons (or part thereof) present in that zone provided that an attendant shall be present in any auditorium where the number of customers present in that auditorium exceeds 150 persons.
- (b) In the case of a cinema equipped with staff alerting and communication systems the number of attendants shall be in accordance with the following scale:

PERSONS PRESENT	ATTENDANTS ON DUTY	STAFF ON CALL IN AN EMERGENCY
Up to 250	1	0
250 to 500	1	1
501 to 750	1	2
751 to 1000	2	3
1001 to 1500	3	3
1501 to 2000	3	4

- (c) Attendants shall remain in their allocated zone and where there is more than one auditorium within the zone shall patrol throughout the zone and need not remain within a particular auditorium.

NOTE: For the purpose of this rule:

- (i) "Floor" means a level on which the entrance to one or more auditoria, or a separate level of an auditorium, are situated.
- (ii) "Zone" means part of a floor where the greatest distance of travel between an entrance to the two most distant auditoria does not exceed 100 metres.
- (iii) "Staff alerting system" means a system by which staff who are available on duty or on call may be warned that a fire or other emergency has arisen on the premises.
- (iv) A member of staff is not "on call" if:
- (a) they are the licensee or the person nominated for the time being to be in charge of the premises.

- (b) their normal duties or responsibilities are likely materially to affect adversely or delay their response to an emergency situation.
- (c) they are more than 75 metres from
 - (i) the position to which they are required to go on alerting signals being activated;
 - (ii) a doorway normally affording a means of egress for the public from a floor or zone.

Attendants -
Numbers in
Other
Premises

48 Unless the Council otherwise requires or agrees in writing in any case:

- (a) there shall be a minimum of two attendants on duty on each floor or tier of the auditorium where the public, up to a number not exceeding 500, are present on that floor or tier and thereafter one additional attendant shall be on duty for each additional 250 persons or part thereof present on that floor or tier;
- (b) if an auditorium has only one floor or tier and seats 250 persons or less the number of attendants on duty in that auditorium shall be not less than one.

NOTE: Only one attendant is required to be on duty on any floor or tier of an auditorium when the number of persons present on that floor or tier does not exceed 100 and in the case of an auditorium which has only one floor or tier and which seats 250 persons or less there shall be not less than one attendant on duty in that auditorium.

APPENDIX A

MEMBERSHIP RULES FOR CLUB CINEMAS

The membership rules for club cinemas where restricted 18 films are to be shown must include the following:

- (a) The club rules must be submitted to the Council 14 days before the club commences operations and notice of all rule changes must be given to the Council within 14 days of the change.
- (b) Only members and their guests shall attend exhibitions of moving pictures classified in the restricted (18) classification.
- (c) Membership shall be open to persons of both sexes of not less than 18 years of age. Applications for membership, including both name and address, shall be in writing, signed by the applicant, and if deemed necessary such applicants shall provide satisfactory proof of age.
- (d) No person shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the licence holder.
- (e) New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
- (f) An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the licence holder may refuse to renew any membership without assigning reason for such refusal.
- (g) Members shall be entitled on any day to bring not more than one guest to accompany the member, and the name of the guest shall be entered in the visitors book and counter-signed by the member.
- (h) On admission a member and his guest shall be bound by the rules of the club and by any by-laws and regulations made under the rules of the club.
- (i) Tickets shall be sold only to members on the production of a membership card, and members shall, if required, sign an acknowledgement for the ticket or ticket issued.
- (j) Membership cards shall be personal to the member and shall not be transferable to any other person.
- (k) Neither membership tickets nor guest tickets shall be transferable.
- (l) No member shall introduce as a guest any person under the age of 18 or any person whose application for membership has been refused. The licence holder will reserve the right to refuse admission to any person.
- (m) Proof of identity, or of age, or any particulars of any guest shall be produced by any member or guest if demanded by the licence holder.
- (n) Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.



CRAWLEY BOROUGH COUNCIL

SEX ESTABLISHMENT LICENCE APPLICATION FORM

(Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982)

THE APPLICANT

1. Is the application by made by:- (please tick ✓)

- (a) An individual
(b) A Partnership or other unincorporated body
(c) A Body Corporate

2. Give the full name of the applicant (i.e. the individual, Body Corporate or Unincorporated Body to whom the licence is to be issued). If the applicant is an individual any former names must also be given

.....
.....
.....

3. Give the following information on behalf of applicant:

- (a) Telephone Number (during normal office hours
(b) Address to which communications are to be sent

4. Give the applicant's permanent address (if an individual) or registered or principal office (if a body corporate or an unincorporated body).

.....
.....

5. If the applicant is an individual the following information is to be supplied:-

- (i) Date of Birth
(ii) Place of Birth
(iii) Height

6. If the applicant is a body corporate or an unincorporated body complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body. In the case of a partnership details of all the partners must be given.

Foreman	Surname	Former name (if any)	Address	Capacity	Date of Birth	Place of Birth	Height

7. Complete the table below in respect of each of the individuals whose names are given in response to questions 2 and 6 above.

NAME	Date became resident in United Kingdom	Address of permanent residence throughout six months immediately preceding this application

8. This question need only be answered where the applicant is a Company
- (i) Is the applicant a wholly or partly owned subsidiary of another company?
 - (ii) What type of Company is the applicant (e.g. public, private, limited by share or guarantee etc)?
 - (iii) In which Country is the Company incorporated:
 - (iv) What is the date of incorporation of the Company?
 - (v) Give a full list of names, addresses and holdings of shareholders holding 5% or more of the issued share capital can the number of remaining shareholders.

	Names Addresses Share-holding
.....
.....
.....

- (vi) If the applicant is a subsidiary of another company supply a copy of the memorandum and Articles of Association of the parent company and of any ultimate holding Company and on a separate sheet give the same particulars as are sought in questions 4, 6, 7 and 8 (i to v).

9. Is the applicant or any person whose name is given in response to questions 6 or 8 concerned in any way financially or otherwise with any other business which controls, manages or supplies sex establishments?

10. If the answer to Question 9 is "yes" give the names of the persons concerned, full details of the other business and the nature and extent of the connection
-
-

11. What is the nature of the applicants interest in the premises: Please state whether it is:- (please tick ✓)

- (i) freehold or
 - (ii) leasehold
-

12. If the applicant's interest in the premises is a leasehold one please state

- (i) whether a head lease or an underlease
 - (ii) (a) The name and address of the landlord
 - (b) The name and address of the superior landlord (where applicable)
 - (iii) The amount of the annual rental or where this is not a certain figure describe the method of calculating the rental
 - (iv) The length of the unexpired term
 - (v) The length of notice required to terminate the tenancy
-

13. Has the applicant a financial interest in the business which is the subject of this application? If "yes" to what extent?

14. Is the whole of the business owned by the applicant?

THE PREMISES, VEHICLE VESSEL OR STALL TO BE THE SUBJECT OF A LICENCE

15. Is the application in respect of:- (please tick ✓)

(a) A sex shop; or

(b) a sex cinema

16. State whether the application is in respect of:- (please tick ✓)

(a) Premises

(b) Vehicle

(c) Vessel

(d) Stall

17. Where the licence is sought in respect of a vehicle, vessel or stall state where it is to be used as a sex establishment.

18. Where the Licence is sought in respect of premises give the full address of the premises in respect of which the licence is sought.

19. Are the whole of the premises described in response to Question 18 above to be used under the Licence?

20. If the answer to question 19 above is "no" please state

(i) which part of the premises is to be used for the purposes of the Licence

(ii) The use to which the remainder of the premises are put

(iii) The names of those who are responsible for the management of the remainder of the premises.

21. Are the premises which are to be used for the purposes of the Licence so constructed or adapted as to permit access to and from the premises for members of the public who are disabled?

23. Are the premises vehicle, vessel or stall in use as a sex establishment at the date of this application? If "yes" give the name and address of the persons or body who now operate the business, and (where it is known) the date upon which the premises were first used as such. YES/NO
Name:
Address:

.....
Date:

THE BUSINESS

24. Under what name is or will the business be known?

25. Has the applicant in connection with the business entered into any Agreement or Deed other than the Tenancy Agreement or lease? If "yes" please supply full details and a copy of the Agreement. YES/NO

26. If the whole of the business is not owned by the applicant state the names and addresses of those who will share in the profits of the business. In each case state the percentage share to be taken by each individual.

27. (a) State the total turnover of the business during the 12 months immediately prior to this application.

- (b) What proportion of the turnover derived from
 - (i) the sale, hire, exchange, loan, display or demonstration of sex articles as defined in para 4 of Schedule 3 of the Local Govt. (Miscellaneous Provisions) Act 1982.
 - (ii) The use of premises as a sex cinema.

28. State:
- (a) the anticipated turnover of the business for the next 12 months.
 - (b) the proportion of the turnover expected to be derived from
 - (i) the sale, hire, exchange, loan, display or demonstration of sex articles as defined in para 4 of Schedule 3 of the Local Govt. (Miscellaneous Provisions) Act 1982; and
 - (ii) the use of premises as a sex cinema.

29 Give the names and addresses of any lenders, mortgagees or others providing finance with the full terms of such loans.

30. Is the business required to purchase merchandise from a particular company, person

or body? If "yes" supply a copy 7 of any Agreement and state what is to be purchased and from whom.

.....
.....

31. What articles are to be offered for sale? (please state below)

.....
.....
.....
.....
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.....
.....
.....

32. What advertisement or displays are to be exhibited? Please indicate size(s) of proposed displayed or advertisements

.....
.....
.....
.....
.....

33. What means are to be taken to prevent the interior of the premises being visible to passers-by?

.....
.....
.....

34 Give details of the times during which it is proposed to open the premises

(i) Days of the week

.....
.....
.....
.....
.....
.....

(ii) Hours of the day

.....
.....
.....

35. In respect of each individual who is to be responsible for the management of the premises in the absence of the licence holder please supply the following details:

Forename	Surname	Former name (if any)	Permanent Address	Date on which became resident in UK	Date of Birth	Place of Birth	Height

36. In respect of each of the persons whose names are given in response to Questions 2, 6, 8 and 35 give details of their occupations during the 5 years immediately prior to this application. These must include the names and addresses of all employers and the nature and dates of employment.

Foreman	Surname	Former name (if any)	Permanent address during period of relevant employment	Employers name and address	Description or nature of work	Period of employment from/to

DETAILS OF PREVIOUS CONVICTIONS, DISQUALIFICATION ETC

37. In respect of each of the persons or bodies whose names are given in response to Questions 2, 6, 8 and 35 give details of their previous convictions and of any previous convictions of any of their spouses:-

Forename	Surname	Former name (if any)	Date of conviction	Place of conviction	Nature of offence	Sentence

38. Have you any reason to believe that a prosecution may be pending against any of the persons or bodies whose names are given in response to Questions 2, 6, 8 and 35? If "yes" give details

Yes/No

.....

.....

39. Has any person named at any place in this application been associated in anyway with any other application for a licence for a sex establishment either in the Borough of Crawley or elsewhere? If "yes" give full details (including the address of the premises and the Council's reference).

Yes/No

.....

.....

.....

.....

40. Is there in force against the applicant or any of the persons whose names appear in answer to Questions 6, 8, 35 and 37, a disqualification from holding a licence for a sex establishment under the Local Government. (Miscellaneous Provisions) Act 1982.

Yes/No

.....

.....

.....

.....

41. Is there any further information which the applicant would wish the Council to take into account when considering this application?

.....

.....

.....

DECLARATION

APPLICANTS ARE WARNED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A 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 A FINE NOT EXCEEDING **TWENTY THOUSAND POUNDS (£20,000)**

I..... declare that the information given above is true and complete in every respect.

Dated this day of 20

Signature

Designation of Signatory

THIS APPLICATION SHOULD BE COMPLETED IN FULL AND RETURNED TO THE LICENSING SECTION, ENVIRONMENTAL AND HOUSING DIRECTORATE, CRAWLEY BOROUGH COUNCIL, TOWN HALL, THE BOULEVARD, CRAWLEY, WEST SUSSEX, RH10 1UZ.

PLEASE NOTE THAT BEFORE THE APPLICATION CAN BE CONSIDERED THE FOLLOWING ADDITIONAL DOCUMENTS WILL HAVE TO BE SUPPLIED

- A. A complete copy of the newspaper circulating in the Council's area in which notice of the application has been published in accordance with paragraph 10(8) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended. Photostat copies of the newspaper will not be accepted, copies of the forms of notice to be used in the newspaper advertisement and for display upon premises have been prescribed by Crawley Borough Council and may be obtained from the Licensing Section, Environmental and Housing Directorate, Crawley Borough Council, Town Hall, The Boulevard, CRAWLEY, West Sussex, RH10 1UZ.
- B. Evidence of the due service of the Notice of Application upon the Superintendent of Crawley Police Station as required by paragraph 10(14) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended. A copy of the application including a copy of all the enclosures must be sent to the Superintendent of Crawley Police Station, Sussex Police Authority, Crawley police Station, Northgate Avenue, CRAWLEY, West Sussex, RH10 8BF
- C. Evidence of Affidavit that the Notice of Application has been displayed on or near the premises as required by paragraph 10 (10) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.



(Licensing Section, Town Hall, Crawley, West Sussex, RH10 1UZ)

NOTICE OF APPLICATION

SEX ESTABLISHMENT LICENCE

(Local Government (Miscellaneous Provisions) Act 1982)

Notice is hereby given that (I, we)

Applied to Crawley Borough Council on

Application date;-

for the (application)(renewal)(transfer) of a licence for a sex establishment as a
Sex shop / Sex Cinema

For the following premises address;-

Anyone wishing to oppose the application must give notice in writing to the Head of Environmental Services, Environmental and Housing Directorate, Crawley Borough Council, Town Hall, Boulevard, Crawley, West Sussex, RH10 1UZ **WITHIN 28 DAYS OF THE DATE OF THIS NOTICE**, specifying the grounds of opposition. Crawley Borough Council will not reveal the names or addresses of the objectors without their consent. Anyone requiring further advice or information should contact the Licensing Division on telephone number (01293) 438279.
E-mail: licensing@crawley.gov.uk

Person objecting to the grant or renewal of licences must be prepared to attend in person at a public hearing before a committee of the Council.

This notice must be completed and on the same day on which the application is made must be exhibited on a conspicuous part of the premises where it can easily be read by persons in the street at all times. The notice must be exhibited continuously for not less than 21 days.

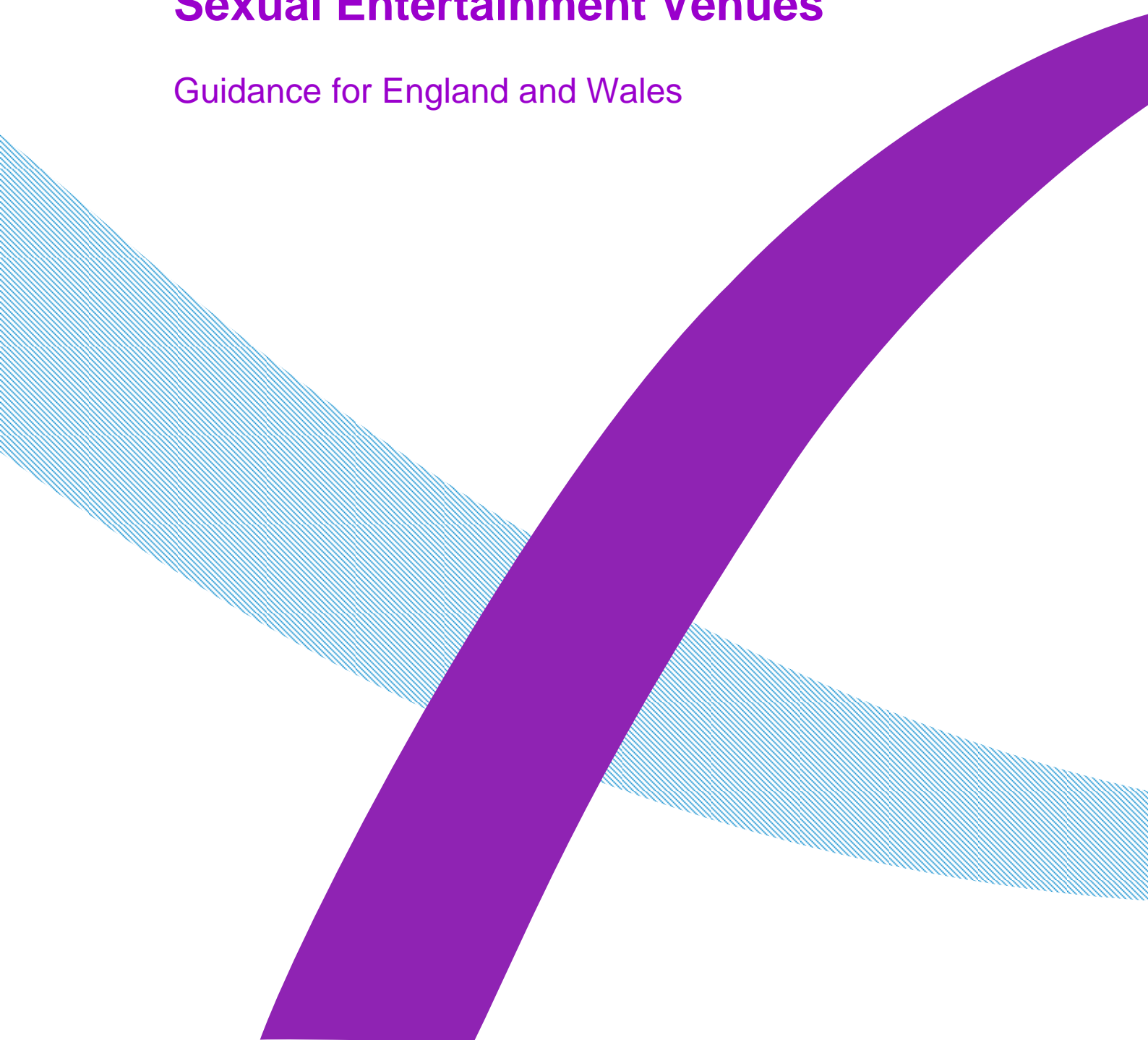
APPENDIX B



Home Office

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

A handwritten signature in cursive script that reads "Alan Campbell".

Parliamentary Under-Secretary of State for Crime Reduction

March 2010

INTRODUCTION

Definitions

1.1 In this guidance –

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

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

The “2003 Act” means the Licensing Act 2003

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

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

Policing and Crime Act 2009

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

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

The Guidance

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

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

POLICING AND CRIME ACT 2009

Meaning of Sexual Entertainment Venue

- 2.1 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment' for the purposes of these provisions. A sexual entertainment venue is defined as *“any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.”*
- 2.2 The meaning of 'relevant entertainment' is *“any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).”* An audience can consist of just one person (e.g. where the entertainment takes place in private booths).
- 2.3 While local authorities should judge each case on its merits, we would expect that the definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood:
- Lap dancing
 - Pole dancing
 - Table dancing
 - Strip shows
 - Peep shows
 - Live sex shows
- 2.4 The above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should only be treated as indicative. Ultimately, decisions to licence premises as sexual entertainment venues shall depend on the content of the entertainment provided and not the name it is given.

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

Nudity

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

The Organiser

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

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

Spontaneous Entertainment

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

Premises that are not sexual entertainment venues

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

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

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

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

Amendments to the Licensing Act 2003

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

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

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

Consultation with Local People

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

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

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

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

The Appropriate Authority

- 3.1 The appropriate authority is responsible for determining applications for sex establishment licences. For the purposes of the 1982 Act 'appropriate authority' means the local authority which passed a resolution under section 2 of that Act to adopt Schedule 3 in their area. 'Local authority' means—
- (a) the council of a district (including a unitary County Council) or, in Wales, the principal council¹;
 - (b) the council of a London borough; and
 - (c) the Common Council of the City of London.

Committee or Sub-Committee

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

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

Adopting the Provisions

- 3.4 Section 27 comes into force on 6th April 2010 in England and 8th May in Wales². On or following this date local authorities may resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in their area.
- 3.5 Although many local authorities will have already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by Section 27 will have effect in the local authority area. However, where a local authority has not resolved to adopt Schedule 3 to the 1982 Act before the coming into force of Section 27, the amendments made to Schedule 3 by section 27 will apply automatically if a resolution to adopt Schedule 3 is made subsequently (see Schedule 3 to the 2009 Act).
- 3.6 The procedure for local authorities to adopt Schedule 3 as amended by section 27 is set out in section 2 of the 1982 Act. Firstly, the local authority must pass a resolution specifying that Schedule 3 or, in the case of an authority where Schedule 3 is already in force, the amendments made by section 27 to that Schedule, shall apply to their area and the day on which it or they shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed.
- 3.7 The local authority shall publish notice that they have passed a resolution under section 2 of the 1982 Act or (in cases where Schedule 3 is already in force but the local authority is adopting the amendments made by section 27) paragraph 2(2) of Schedule 3 to the 2009 Act for two consecutive weeks in a local newspaper that is circulated in their area. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the

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

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

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

Requirement for a Sex Establishment Licence

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

Premises that are deemed to be Sexual Entertainment Venues

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

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

Notices

3.13 Applicants for a sex establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made.

3.14 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 day beginning with the date the applications was made.

3.15 All notices should be in the form prescribed by the appropriate authority and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.

3.16 There are similar notification requirements for applications made under the 2003 Act. Where an applicant is making an application under both Schedule 3 and the 2003 Act at the same time they may wish to combine these requirements where permitted.

Application Forms

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

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

Single Point of Contact

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

Fees

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

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

Objections

- 3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values⁵ and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

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

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

⁴ www.lacors.gov.uk

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

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

Refusal of a Licence

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

A licence must not be granted:

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

3.28 A licence may be refused where:

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

⁶ R v Plymouth City Council v Quietlynn [1998] Q.B. 114.

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

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

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

3.31 The Provision of Services Regulations 2009⁸ amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

Relevant Locality

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

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

⁸ Regulation 47

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

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

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

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

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

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

⁹ See *R v Peterborough City Council ex parte Quietlynn* 85 L.G.R. 249 for further guidance.

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

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

Licence Conditions

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

¹⁰ R v Peterborough City Council ex parte Quietlynn 85 L.G.R. 249

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

Duration of Licences

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

Appeals

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

Licensing Policies

- 3.45 While local authorities are not required to publish a licensing policy relating to sex establishments they can do so if they wish as long as it

does not prevent any individual application from being considered on its merits at the time the application is made.¹¹

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

Offences

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

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

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

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

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

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

Provisions Relating to Existing Premises

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

The Services Directive

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

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

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

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

TRANSITIONAL PROVISIONS

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

Transitional Period

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

Existing Operators

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

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

New Applicants

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

Determining Applications Received On or Before the 2nd Appointed Day

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

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

Determining Applications Received After the 2nd Appointed Day

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

Outstanding Applications

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

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

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

Existing Licence Conditions

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

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

ECHR Considerations

4.19 The Transitional Order allows local authorities to refuse applications, whether they are from existing operators or new applicants, on one or more grounds set out in paragraph 12 of Schedule 3. When making such decisions, local authorities must take into account any rights the existing operators may have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

4.20 In light of the leading case of *Belfast City Council v Miss Behavin' Ltd* (Northern Ireland)¹² it would be prudent for local authorities to assume that freedom of expression includes the right to use particular premises as sexual entertainment venues and that a person who is denied the right to use his premises as a sexual entertainment venue where he already has a licence to do so under the 2003 Act (or in future under the 1982 Act) has been deprived of possessions. (Some Lords did not decide this point or disagreed that such rights were engaged and therefore it would still be open to local authorities to argue that such rights were not engaged in a particular case). However, in any event, the House of Lords were agreed that such rights would only be engaged at a low level. This led Lord Hoffman to say that if the local authority exercises its powers rationally and in accordance with the purposes of the statutory provisions, it would require very unusual facts for it to amount to a disproportionate restriction on Convention rights.

¹² [2007] UKHL 19

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

Changes to Licensing Policies

4.22 Many local authorities who have already adopted Schedule 3 will have published a licensing policy for sex establishments. Such policies may provide a useful guide to potential applicants about whether a particular application is likely to be successful or not.

4.23 Upon resolving to adopt the sexual entertainment venue provisions introduced by the 2009 Act, local authorities should ensure that their licensing policies for sex establishments are up to date and reflect the changes introduced by Section 27. This could mean updating existing policies or producing a policy specific to regulation of sexual entertainment venues.

London

Sex Encounter Establishments

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

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

Hostess Bars

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

Soliciting for Custom

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

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

ANNEX A: GUIDE TO TRANSITIONAL PERIOD AND EXISTING OPERATORS

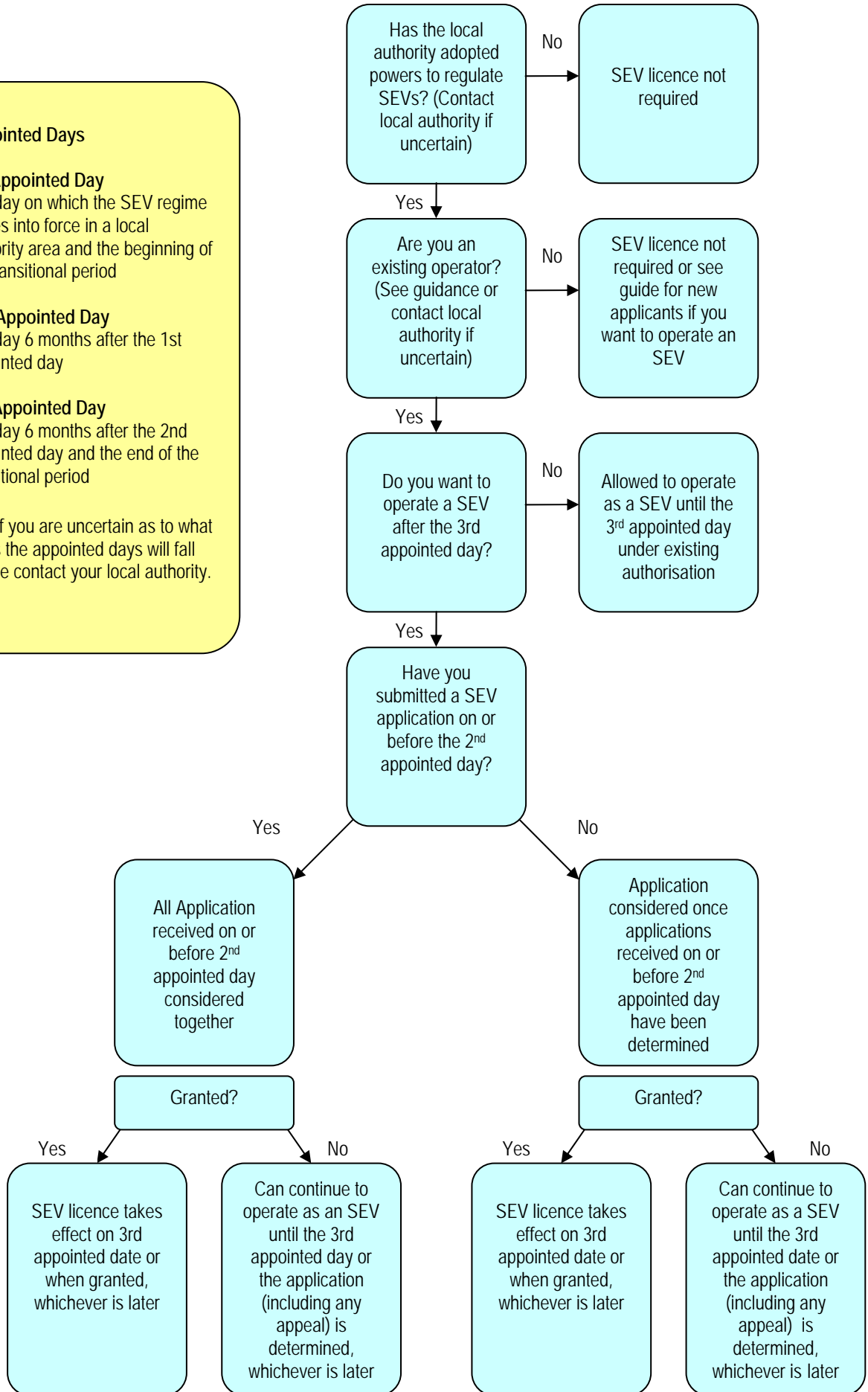
Appointed Days

1st Appointed Day
The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

2nd Appointed Day
The day 6 months after the 1st appointed day

3rd Appointed Day
The day 6 months after the 2nd appointed day and the end of the transitional period

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



ANNEX B: GUIDE TO TRANSITIONAL PERIOD AND NEW APPLICANTS

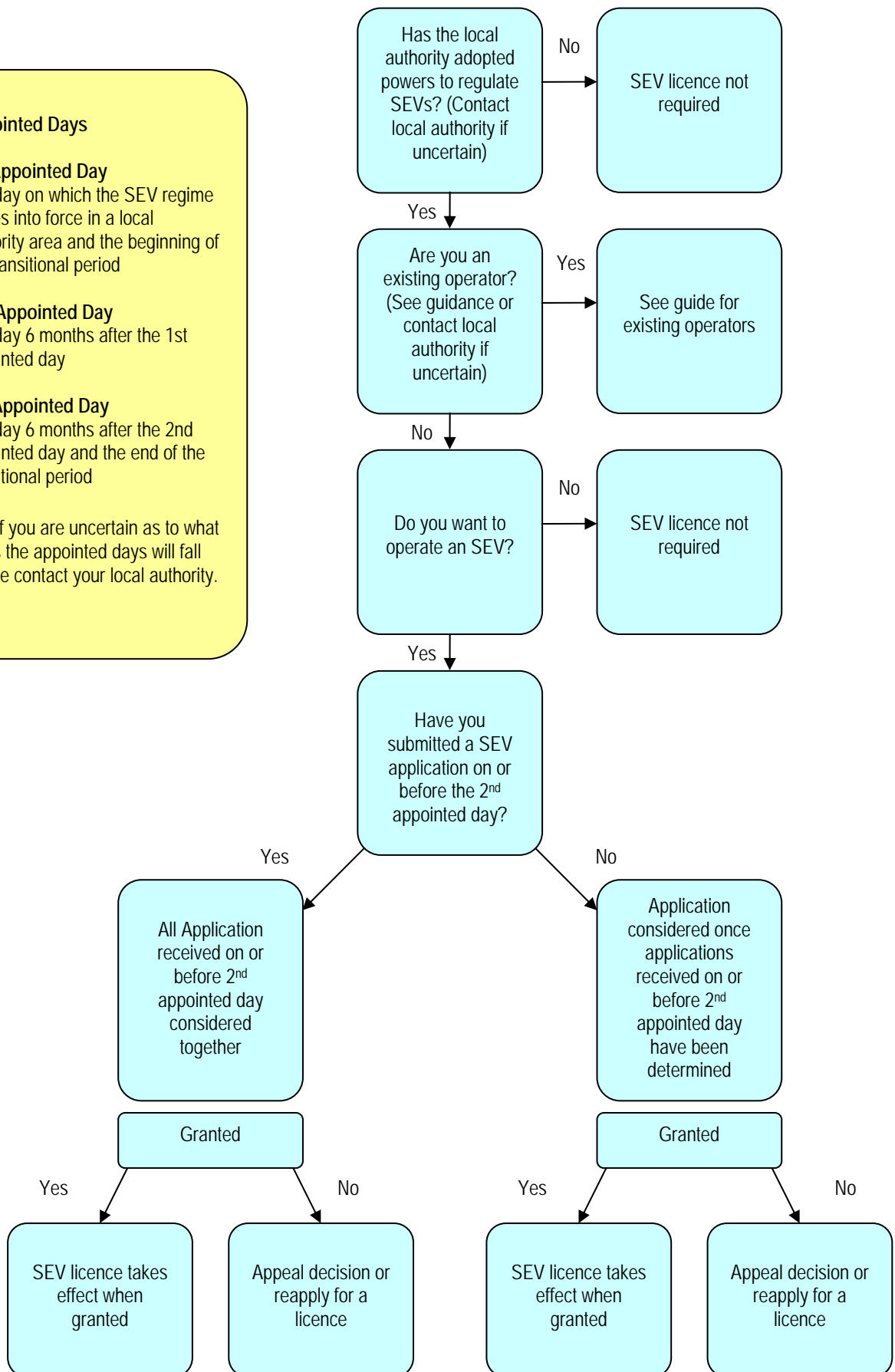
Appointed Days

1st Appointed Day
The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

2nd Appointed Day
The day 6 months after the 1st appointed day

3rd Appointed Day
The day 6 months after the 2nd appointed day and the end of the transitional period

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



Local Government (Miscellaneous Provisions) Act 1982

(1982 c 30)

SCHEDULE 3

CONTROL OF SEX ESTABLISHMENTS

Section 2

Saving for existing law

1

Nothing in this Schedule--

- (a) shall afford a defence to a charge in respect of any offence at common law or under an enactment other than this Schedule; or
- (b) shall be taken into account in any way--
 - (i) at a trial for such an offence; or
 - (ii) in proceedings for forfeiture under section 3 of the Obscene Publications Act 1959 or *section 5 of [the Schedule to] the Protection of Children Act 1978*; or
 - (iii) in proceedings for condemnation under Schedule 3 to the Customs and Excise Management Act 1979 of goods which section 42 of the Customs Consolidation Act 1876 prohibits to be imported or brought into the United Kingdom as being indecent or obscene; or
- (c) shall in any way limit the other powers exercisable under any of those Acts.

Meaning of "sex establishment"

2

In this Schedule "sex establishment" means a sexual entertainment venue, sex cinema[, a sex encounter establishment][, a hostess bar] or a sex shop.

[Meaning of "sexual entertainment venue"

2A

- (1) In this Schedule "sexual entertainment venue" means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph "relevant entertainment" means--
 - (a) any live performance; or
 - (b) any 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 the audience (whether by verbal or other means).

- (3) The following are not sexual entertainment venues for the purposes of this Schedule--

(a) sex cinemas and sex shops;

(b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time--

(i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;

(ii) no such occasion has lasted for more than 24 hours; and

(iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

(c) premises specified or described in an order made by the relevant national authority.

(4) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).

(5) But no order under sub-paragraph (4) may--

(a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or

(b) provide for shorter intervals between such occasions.

(6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.

(7) Any power of the relevant national authority to make an order under this paragraph--

(a) is exercisable by statutory instrument;

(b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and

(c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.

(8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(9) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

(10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(11) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.

(13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

(14) In this paragraph--

"audience" includes an audience of one;

"display of nudity" means--

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) in the case of a man, exposure of his pubic area, genitals or anus;

"the organiser", in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of--

- (a) the relevant entertainment; or
- (b) the premises;

"premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

"relevant national authority" means--

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.]

Meaning of "sex cinema"

3

(1) In this Schedule, "sex cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which--

- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage--
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; or

(b) 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.

(2) No premises shall be treated as a sex cinema by reason only--

[(a) if they may be used for an exhibition of a 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]; or

[(b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of [the Cinemas Act 1985]].

[3A

[(1)] In this Schedule "sex encounter establishment" means--

- (a) premises at which performances which are not unlawful are given by one or more persons present and performing, which wholly or mainly comprise the sexual stimulation of persons admitted to the premises (whether by verbal or any other means); or
- (b) premises at which any services which are not unlawful and which do not constitute sexual activity are provided by one or more persons who are without clothes or who expose their breasts or genital, urinary or excretory organs at any time while they are providing the service; or
- (c) premises at which entertainments which are not unlawful are provided by one or more persons who are without clothes or who expose their breasts or genital, urinary or excretory organs during the entertainment; or
- (d) premises (not being a sex cinema) at which pictures are exhibited by whatever means (and whether or not to the accompaniment of music) in such circumstances that it is reasonable for the appropriate authority to decide that the principal purpose of the exhibition, other than the purpose of generating income, is to stimulate or encourage sexual activity or acts of force or restraint associated with sexual activity;

Provided that no premises which are--

- [(i) for the time being, being used for the provision of regulated entertainment (within the meaning of the Licensing Act 2003), in circumstances where that use is authorised under that Act; or
- (ii) for the time being, being used for the purposes of late night refreshment (within the meaning of that Act), in circumstances where that use is so authorised; or]
- (iii) a private dwelling-house to which the public are not admitted;

shall be regarded as a "sex encounter establishment".]

[(2) In sub-paragraph (1) above, "premises" includes any vehicle, vessel or stall.]

[Meaning of "hostess bar"

3B

- (1) Subject to sub-paragraph (2) below, in this Schedule "hostess bar" means--
 - (a) any premises used for a business which consists, whether in whole or in part, of the offering, expressly or by implication, whether on payment of a fee or not, of the provision of companions for customers on the premises; or
 - (b) any premises in respect of which any impression, by whatever means, is given to customers, or potential customers, that a performance, entertainment, service, exhibition or other experience of a sexual nature is available on the said premises; or
 - (c) any premises in respect of which any impression, by whatever means, is given to customers, or potential customers, that alcoholic refreshments are available on the said premises despite the premises not being the subject of a premises licence or a club certificate under the 2003 Act.
- (2) The following premises are not hostess bars for the purposes of this paragraph, namely--
 - (a) premises in which the sale to customers for consumption of alcohol is not a licensable activity under or by virtue of the 2003 Act;
 - (b) premises in respect of which there is in force--

- (i) a licence granted by the council under section 21 (licensing of public exhibitions, etc) of the Greater London Council (General Powers) Act 1966 (c xxviii);
 - (ii) a premises licence granted under Part 3 of the 2003 Act;
 - (iii) a club premises certificate granted under Part 4 of the 2003 Act;
 - (iv) a temporary event notice given under the 2003 Act, by virtue of which the premises may be used for the supply of alcohol (within the meaning of section 14 of that Act);
 - (v) a licence under Part II of the Gaming Act 1968 (c 65),
- (3) Sub-paragraph (2)(b) applies--
- (a) only during the hours permitted by the licence or notice there mentioned, and
 - (b) only if provided that the premises are in use wholly or mainly and bona fide for the purpose authorised by the licence, notice or certificate.
- (4) In sub-paragraph (1) above, "premises" includes any vehicle, vessel or stall.
- (5) In this paragraph, "the 2003 Act" means the Licensing Act 2003 (c 17).]

Meaning of "sex shop" and "sex article"

4

- (1) In this Schedule "sex shop" means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating--
- (a) sex articles; or
 - (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging--
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.
- (2) 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) In this Schedule "sex article" means--
- (a) anything made for use in connection with, or for the purpose of stimulating or encouraging--
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
 - (b) anything to which sub-paragraph (4) below applies.
- (4) This sub-paragraph applies--
- (a) 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
 - (b) to any recording of vision or sound, which--

(i) 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

(ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Miscellaneous definitions

5

(1) In this Schedule--

"the appropriate authority" means, in relation to any area for which a resolution has been passed under section 2 above, the local authority who passed it;

"the chief officer of police", in relation to any locality, means the chief officer of police for the police area in which the locality is situated; and

"vessel" includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

(2) This Schedule applies to hovercraft as it applies to vessels.

Requirement for licences for sex establishments

6

(1) Subject to the provisions of this Schedule, no person shall in any area in which this Schedule is in force use any premises, vehicle, vessel or stall as a sex establishment except under and in accordance with the terms of a licence granted under this Schedule by the appropriate authority.

(2) Sub-paragraph (1) above does not apply to the sale, supply or demonstration of articles which--

(a) are manufactured for use primarily for the purposes of birth control; or

(b) primarily relate to birth control.

7

(1) Any person who--

(a) uses any premises, vehicle, vessel or stall as a sex establishment; or

(b) proposes to do so,

may apply to the appropriate authority for them to waive the requirement of a licence.

(2) An application under this paragraph may be made either as part of an application for a licence under this Schedule or without any such application.

(3) An application under this paragraph shall be made in writing and shall contain the particulars specified in paragraph 10(2) to (5) below and such particulars as the appropriate authority may reasonably require in addition.

(4) The appropriate authority may waive the requirement of a licence in any case where they consider that to require a licence would be unreasonable or inappropriate.

- (5) A waiver may be for such period as the appropriate authority think fit.
- (6) Where the appropriate authority grant an application for a waiver, they shall give the applicant for the waiver notice that they have granted his application.
- (7) The appropriate authority may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

Grant, renewal and transfer of licences for sex establishments

8

[(1)] Subject to [sub-paragraph (2) and] paragraph 12(1) below, the appropriate authority may grant to any applicant, and from time to time renew, a licence under this Schedule for the use of any premises, vehicle, vessel or stall specified in it for a sex establishment on such terms and conditions and subject to such restrictions as may be so specified.

[(2) No term, condition or restriction may be specified under sub-paragraph (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005 in respect of the premises, vehicle, vessel or stall.]

9

- (1) Subject to paragraphs 11 and 27 below, any licence under this Schedule shall, unless previously cancelled under paragraph 16 **or 27A below** or revoked under paragraph 17(1) below, remain in force for one year or for such shorter period specified in the licence as the appropriate authority may think fit.
- (2) Where a licence under this Schedule has been granted to any person, the appropriate authority may, if they think fit, transfer that licence to any other person on the application of that other person.

10

- (1) An application for the grant, renewal or transfer of a licence under this Schedule shall be made in writing to the appropriate authority.
- (2) An application made otherwise than by or on behalf of a body corporate or an unincorporated body shall state--
 - (a) the full name of the applicant;
 - (b) his permanent address; and
 - (c) his age.
- (3) An application made by a body corporate or an unincorporated body shall state--
 - (a) the full name of the body;
 - (b) the address of its registered or principal office; and
 - (c) the full names and private addresses of the directors or other persons responsible for its management.
- (4) An application relating to premises shall state the full address of the premises.
- (5) An application relating to a vehicle, vessel or stall shall state where it is to be used as a sex establishment.

(6) Every application shall contain such particulars as the appropriate authority may reasonably require in addition to any particulars required under sub-paragraphs (2) to (5) above.

(7) An applicant for the grant, renewal or transfer of a licence under this Schedule shall give public notice of the application.

(8) Notice shall in all cases be given by publishing an advertisement in a local newspaper circulating in the appropriate authority's area.

(9) The publication shall not be later than 7 days after the date of the application.

(10) Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.

(11) Every notice under this paragraph which relates to premises shall identify the premises.

(12) Every such notice which relates to a vehicle vessel or stall shall specify where it is to be used as a sex establishment.

(13) Subject to sub-paragraphs (11) and (12) above, a notice under this paragraph shall be in such form as the appropriate authority may prescribe.

[(14) A copy of an application for the grant, renewal or transfer of a licence under this Schedule shall be sent to the chief officer of police--

(a) in a case where the application is made by means of a relevant electronic facility, by the appropriate authority not later than 7 days after the date the application is received by the authority;

(b) in any other case, by the applicant not later than 7 days after the date of the application.

(14A) In sub-paragraph (14) above "relevant electronic facility" means--

(a) the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009, or

(b) any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.]

(15) Any person objecting to an application for the grant, renewal or transfer of a licence under this Schedule shall give notice in writing of his objection to the appropriate authority, stating in general terms the grounds of the objection, not later than 28 days after the date of the application.

(16) Where the appropriate authority receive notice of any objection under sub-paragraph (15) above, the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant.

(17) The appropriate authority shall not without the consent of the person making the objection reveal his name or address to the applicant.

(18) In considering any application for the grant, renewal or transfer of a licence the appropriate authority shall have regard to any observations submitted to them by the chief officer of police and any objections of which notice has been sent to them under sub-paragraph (15) above.

(19) The appropriate authority shall give an opportunity of appearing before and of being heard by a committee or sub-committee of the authority--

(a) before refusing to grant a licence, to the applicant;

(b) before refusing to renew a licence, to the holder; and

(c) before refusing to transfer a licence, to the holder and the person to whom he desires that it shall be transferred.

(20) Where the appropriate authority refuse to grant, renew or transfer a licence, they shall give him a statement in writing of the reasons for their decision.

11

(1) Where, before the date of expiry of a licence, an application has been made for its renewal, it shall be deemed to remain in force notwithstanding that the date has passed until the withdrawal of the application or its determination by the appropriate authority.

(2) Where, before the date of expiry of a licence, an application has been made for its transfer, it shall be deemed to remain in force with any necessary modifications until the withdrawal of the application or its determination, notwithstanding that the date has passed or that the person to whom the licence is to be transferred if the application is granted is carrying on the business of the sex establishment.

Refusal of licences

12

(1) A licence under this Schedule shall not be granted--

(a) to a person under the age of 18; or

(b) to a person who is for the time being disqualified under paragraph 17(3) below; or

(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.

(2) Subject to paragraph 27 below, the appropriate authority may refuse--

(a) an application for the grant or renewal of a licence on one or more of the grounds specified in sub-paragraph (3) below;

(b) an application for the transfer of a licence on either or both of the grounds specified in paragraphs (a) and (b) of that sub-paragraph.

(3) The grounds mentioned in sub-paragraph (2) above are--

(a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(b) that 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;

(c) *that the number of sex establishments in the relevant locality at the time the application is made [determined] is equal to or exceeds the number which the authority consider is appropriate for that locality;*

[(c) that 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.
- (4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c) above.
- (5) In this paragraph "the relevant locality" means--
- (a) in relation to premises, 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.

Power to prescribe standard conditions

13

(1) Subject to the provisions of this Schedule, the appropriate authority may make regulations prescribing standard conditions applicable to licences for sex establishments, that is to say, terms, conditions and restrictions on or subject to which licences under this Schedule are in general to be granted, renewed or transferred by them.

[(1A) No standard condition may be prescribed by regulation under sub-paragraph (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.]

(2) Regulations under sub-paragraph (1) above may make different provision--

- (a) for [sexual entertainment venues.] sex cinemas[, sex encounter establishments][, hostess bars] and sex shops; and
- (b) for different kinds of [sexual entertainment venues.] sex cinemas[, sex encounter establishments][, hostess bars] and sex shops.

(3) Without prejudice to the generality of sub-paragraphs (1) and (2) above, regulations under this paragraph may prescribe conditions regulating--

- (a) the hours of opening and closing of sex establishments;
- (b) displays or advertisements on or in such establishments;
- (c) the visibility of the interior of sex establishments to passers-by; and
- (d) *any change of a sex cinema to a sex shop or a sex shop to a sex cinema*

[(d) any change from one kind of sex establishment mentioned in sub-paragraph (2)(a) above to another kind of sex establishment so mentioned]

[(d) any change of a sex cinema to a sex shop or a sex encounter establishment, any change of a sex shop to a sex cinema or a sex encounter establishment or any change of a sex encounter establishment to a sex cinema or a sex shop]

[(d) any change--

- (i) of a sex cinema to a sex shop, a sex encounter establishment, or hostess bar;
- (ii) of a sex shop to a sex encounter establishment, a sex cinema or a hostess bar;
- (iii) of a sex encounter establishment to a sex cinema, a sex shop or a hostess bar; or
- (iv) of a hostess bar to a sex cinema, a sex shop or a sex encounter establishment].

(4) Where the appropriate authority have made regulations under sub-paragraph (1) above, every such licence granted, renewed or transferred by them shall be presumed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless they have been expressly excluded or varied.

(5) Where the appropriate authority have made regulations under sub-paragraph (1) above, they shall, if so requested by any person, supply him with a copy of the regulations on payment of such reasonable fee as the authority may determine.

(6) In any legal proceedings the production of a copy of any regulations made by the appropriate authority under sub-paragraph (1) above purporting to be certified as a true copy by an officer of the authority authorised to give a certificate for the purposes of this paragraph shall be prima facie evidence of such regulations, and no proof shall be required of the handwriting or official position or authority of any person giving such certificate.

Copies of licences and standard conditions

14

(1) The holder of a licence under this Schedule shall keep exhibited in a suitable place to be specified in the licence a copy of the licence and any regulations made under paragraph 13(1) above which prescribe standard conditions subject to which the licence is held.

(2) The appropriate authority shall send a copy of any licence granted under this Schedule to the chief officer of police for the area where the sex establishment is situated.

Transmission and cancellation of licences

15

In the event of the death of the holder of a licence granted under this Schedule, that licence shall be deemed to have been granted to his personal representatives and shall, unless previously revoked, remain in force until the end of the period of 3 months beginning with the death and shall then expire; but the appropriate authority may from time to time, on the application of those representatives, extend or further extend the period of three months if the authority are satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make it undesirable.

16

The appropriate authority may, at the written request of the holder of a licence, cancel the licence.

Revocation of licences

17

- (1) The appropriate authority may, after giving the holder of a licence under this Schedule an opportunity of appearing before and being heard by them, at any time revoke the licence--
- (a) on any ground specified in sub-paragraph (1) of paragraph 12 above; or
 - (b) on either of the grounds specified in sub-paragraph (3)(a) and (b) of that paragraph.
- (2) Where a licence is revoked, the appropriate authority shall, if required to do so by the person who held it, give him a statement in writing of the reasons for their decision within 7 days of his requiring them to do so.
- (3) Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the area of the appropriate authority for a period of 12 months beginning with the date of revocation.

Variation of licences

18

- (1) The holder of a licence under this Schedule may at any time apply to the appropriate authority for any such variation of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.
- (2) [Subject to sub-paragraph (4) below,] the appropriate authority--
- (a) may make the variation specified in the application; or
 - (b) may make such variations as they think fit; or
 - (c) may refuse the application.
- (3) The variations that an authority may make by virtue of sub-paragraph (2)(b) above include, without prejudice to the generality of that sub-paragraph, variations involving the imposition of terms, conditions or restrictions other than those specified in the application.
- [(4) No variation is to be made under this paragraph in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.]

Fees

19

An application for the grant, **[variation,]** renewal[, variation] or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority.

Enforcement

20

- (1) A person who--
- (a) knowingly uses, or knowingly causes or permits the use of, any premises, vehicle, vessel or stall contrary to paragraph 6 above; or
 - (b) being the holder of a licence for a sex establishment, employs in the business of the establishment any person known to him to be disqualified from holding such a licence; or
 - (c) being the holder of a licence under this Schedule, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in the licence; or
 - (d) being the servant or agent of the holder of a licence under this Schedule, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in the licence,

shall be guilty of an offence.

21

Any person who, in connection with an application for the grant, renewal or transfer of a licence under this Schedule, makes a false statement which he knows to be false in any material respect or which he does not believe to be true, shall be guilty of an offence.

22

- (1) A person guilty of an offence under paragraph 20 or 21 above shall be liable on summary conviction to a fine not exceeding [£20,000].
- (2) A person who, being the holder of a licence under this Schedule, fails without reasonable excuse to comply with paragraph 14(1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding [level 3 on the standard scale].

Offences relating to persons under 18

23

- (1) A person who, being the holder of a licence for a sex establishment--
- (a) without reasonable excuse knowingly permits a person under 18 years of age to enter the establishment; or
 - (b) employs a person known to him to be under 18 years of age in the business of the establishment,

shall be guilty of an offence.

- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding [£20,000].

Powers of constables and local authority officers

24

...

25

(1) A constable may, at any reasonable time, enter and inspect any sex establishment in respect of which a licence under this Schedule is for the time being in force, with a view to seeing--

- (i) whether the terms, conditions or restrictions on or subject to which the licence is held are complied with;
- (ii) whether any person employed in the business of the establishment is disqualified from holding a licence under this Schedule;
- (iii) whether any person under 18 years of age is in the establishment; and
- (iv) whether any person under that age is employed in the business of the establishment.

(2) Subject to sub-paragraph (4) below, a constable may enter and inspect a sex establishment if he has reason to suspect that an offence under paragraph 20, 21 or 23 above has been, is being, or is about to be committed in relation to it.

(3) An authorised officer of a local authority may exercise the powers conferred by sub-paragraphs (1) and (2) above in relation to a sex establishment in the local authority's area.

(4) No power conferred by sub-paragraph (2) above may be exercised by a constable or an authorised officer of a local authority unless he has been authorised to exercise it by a warrant granted by a justice of the peace.

(5) Where an authorised officer of a local authority exercises any such power, he shall produce his authority if required to do so by the occupier of the premises or the person in charge of the vehicle, vessel or stall in relation to which the power is exercised.

(6) Any person who without reasonable excuse refuses to permit a constable or an authorised officer of a local authority to exercise any such power shall be guilty of an offence and shall for every such refusal be liable on summary conviction to a fine not exceeding [level 5 on the standard scale].

[(7) A constable or authorised officer of the appropriate authority who enters and searches any premises under the authority of a warrant issued under sub-paragraph (4) above may seize and remove any apparatus or equipment or other thing whatsoever found on the premises which he has reasonable cause to believe may be liable to be forfeited under sub-paragraph (10) below.

(8) An authorised officer of the appropriate authority who seizes any apparatus or equipment or other thing in the exercise of the powers conferred by sub-paragraph (7) above shall if so requested by a person having custody or control of the apparatus, equipment or thing immediately before the seizure provide that person with a record of what he seized.

(9) The authorised officer of the appropriate authority shall provide a record within a reasonable time from the making of the request for it.

(10) Subject to sub-paragraph (11) below, the court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order any thing produced to the court, and shown to the satisfaction of the court to relate to the offence, to be forfeited and dealt with in such manner as the court may order:

Provided that the court shall not order the forfeiture of any thing produced to the court if its value exceeds an amount equal to the maximum fine which could have been imposed under paragraph 22(1) of this Schedule.

(11) The court shall not order any thing to be forfeited under sub-paragraph (10) above, where a person claiming to be the owner of, or otherwise interested in it, applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.]

[25A

(1) A person acting under the authority of a warrant under paragraph 25(4) may seize and remove anything found on the premises concerned that the person reasonably believes could be forfeited under sub-paragraph (4).

(2) The person who, immediately before the seizure, had custody or control of anything seized under sub-paragraph (1) may request any authorised officer of a local authority who seized it to provide a record of what was seized.

(3) The authorised officer must provide the record within a reasonable time of the request being made.

(4) The court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order anything--

(a) produced to the court; and

(b) shown to the satisfaction of the court to relate to the offence;

to be forfeited and dealt with in such manner as the court may order.

(5) But the court may not order the forfeiture of anything under sub-paragraph (4) if it (whether alone or taken together with other things being forfeited which appear to the court to have been in the custody or control of the same person) is worth more than the amount of the maximum fine specified in paragraph 22(1).

(6) Sub-paragraph (7) applies if a person claiming to be the owner of, or otherwise interested in, anything that may be forfeited applies to be heard by the court.

(7) The court may not order the forfeiture unless the person has had an opportunity to show why the order should not be made.]

Offences by bodies corporate

26

(1) Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members sub-paragraph (1) above shall apply to the acts and defaults of a member in connection with his function of management as if he were a director of the body corporate.

Appeals

27

- (1) Subject to sub-paragraphs (2) and (3) below, any of the following persons, that is to say--
- (a) an applicant for the grant, renewal or transfer of a licence under this Schedule whose application is refused;
 - (b) an applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
 - (c) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
 - (d) a holder of any such licence whose licence is revoked,

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to [a magistrates' court].

(2) An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified in paragraph 12(1) above shall not have a right to appeal under this paragraph unless the applicant seeks to show that the ground did not apply to him.

(3) An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph 12(3)(c) or (d) above shall not have the right to appeal under this paragraph.

(4) In this paragraph--

. . .

"the relevant date" means the date on which the person in question is notified of the refusal of his application, the imposition of the term, condition or restriction by which he is aggrieved or the revocation of his licence, as the case may be.

(5) An appeal against the decision of a magistrates' court under this paragraph may be brought to the Crown Court.

(6) Where an appeal is brought to the Crown Court under sub-paragraph (5) above, the decision of the Crown Court shall be final: . . .

(7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.

(8) Subject to sub-paragraphs (9) to (12) below, it shall be the duty of the appropriate authority to give effect to an order of the magistrates' court or the Crown Court.

(9) The appropriate authority need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (5) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

(10) Where a licence is revoked or an application for the renewal of a licence is refused [except where the grounds for refusal are those set out in paragraph 12(3)(c) or 12(3)(d) of this Schedule], the licence shall be deemed to remain in force--

- (a) until the time for bringing an appeal under this paragraph has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and
- (b) where an appeal relating to the refusal of an application for such a renewal is successful and no further appeal is available, until the licence is renewed by the appropriate authority.

[(10A) Sub-paragraph (10) does not apply if the grounds for refusing an application for the renewal of a licence are those set out in paragraph 12(3)(c) or (d) of this Schedule.]

(11) Where--

- (a) the holder of a licence makes an application under paragraph 18 above; and
- (b) the appropriate authority impose any term, condition or restriction other than one specified in the application,

the licence shall be deemed to be free of it until the time for bringing an appeal under this paragraph has expired.

(12) Where an appeal is brought under this paragraph against the imposition of any such term, condition or restriction, the licence shall be deemed to be free of it until the determination or abandonment of the appeal.

[Premises which are deemed sexual entertainment venues

27A

(1) This paragraph applies if--

- (a) premises are subject to a licence for a sexual entertainment venue; and
- (b) their use would be use as such a venue but for the operation of paragraph 2A(3)(b).

(2) This Schedule applies as if--

- (a) the premises were a sexual entertainment venue; and
- (b) the use or business of the premises was use as, or the business of, such a venue.

(3) But the appropriate authority must cancel the licence if the holder of the licence asks them in writing to do so.

(4) In this paragraph "premises" has the same meaning as in paragraph 2A.]

Provisions relating to existing premises

28

(1) Without prejudice to any other enactment it shall be lawful for any person who--

- (a) was using any premises, vehicle, vessel or stall as a sex establishment immediately before the date of the first publication under subsection (2) of section 2 above of a notice of the passing of a resolution under that section by the local authority for the area; and
- (b) had before the appointed day duly applied to the appropriate authority for a licence for the establishment,

to continue to use the premises, vehicle, vessel or stall as a sex establishment until the determination of his application [by the appropriate authority].

(2) In this paragraph and paragraph 29 below "the appointed day", in relation to any area, means the day specified in the resolution passed under section 2 above as the date upon which this Schedule is to come into force in that area.

29

- (1) This paragraph applies to an application for the grant of a licence under this Schedule made before the appointed day.
- (2) A local authority shall not consider any application to which this paragraph applies before the appointed day.
- (3) A local authority shall not grant any application to which this paragraph applies until they have considered all such applications.
- (4) In considering which of several applications to which this paragraph applies should be granted a local authority shall give preference over other applicants to any applicant who satisfies them--
 - (a) that he is using the premises, vehicle, vessel or stall to which the application relates as a sex establishment; and
 - (b) that some person was using the premises, vehicle, vessel or stall as a sex establishment on 22nd December 1981; and
 - (c) that--
 - (i) he is that person; or
 - (ii) he is a successor of that person in the business or activity which was being carried on there on that date.

Commencement of Schedule

30

- (1) So far as it relates to sex cinemas, this Schedule shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint,
- (2) Subject to sub-paragraph (1) above, this Schedule shall come into force on the day on which this Act is passed.
- (3) Where, in relation to any area, the day appointed under sub-paragraph (1) above falls after the day specified in a resolution passed under section 2 above as the day upon which this Schedule is to come into force in that area, the day so appointed shall, for the purposes of paragraphs 28 and 29 above, be the appointed day in relation to sex cinemas in the area.

NOTES

Initial Commencement

Specified date

Specified date (for certain purposes): 13 July 1982: see para 30(2) above.

To be appointed

To be appointed (for remaining purposes): see para 30(1) above.

Appointment

Appointment (for remaining purposes): 13 October 1982: see SI 1982/1119, art 2.

Extent

This Schedule does not extend to Scotland: see s 49(2).

Amendment

Para 1: in sub-para (b)(ii) words "section 5 of" in italics repealed and subsequent words in square brackets substituted by the Police and Justice Act 2006, s 52, Sch 14, para 7.

Date in force: to be appointed: see the Police and Justice Act 2006, s 53(1)(b).

Para 2: words "sexual entertainment venue," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (2); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 2: words ", a sex encounter establishment" in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(a), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 2: words ", a hostess bar" in square brackets inserted by the London Local Authorities Act 2007, s 33(2), (3).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 2A: inserted by the Policing and Crime Act 2009, s 27(1), (3); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 3: sub-para (2)(a) substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 82, 85(1), (2)(a).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for transitional provisions see the Licensing Act 2003, s 200, Sch 8, Pt 1.

Para 3: sub-para (2)(b) substituted by the Cinemas Act 1985, s 24(1), Sch 2, para 16(b).

Para 3: in sub-para (2)(b) words "the Cinemas Act 1985" in square brackets substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 82, 85(1), (2)(b).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for transitional provisions and savings see the Licensing Act 2003, s 200, Sch 8, Pt 1, Pt 4, para 32.

Para 3A: inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(b), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 3A: sub-para (1) numbered as such by the London Local Authorities Act 2007, s 33(2), (4).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 3A: sub-paras (i), (ii) substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 82, 85(1), (3).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for transitional provisions and savings see the Licensing Act 2003, s 200, Sch 8, Pt 1, Pt 4, para 32.

Para 3A: sub-para (2) inserted by the London Local Authorities Act 2007, s 33(2), (4).

Date in force: 19 September 2007 (in relation to the City of Westminster): see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 3B: inserted by the London Local Authorities Act 2007, s 33(2), (5).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 8: sub-para (1) numbered as such by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(i).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 8: in sub-para (1) words "sub-paragraph (2) and" in square brackets inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(ii).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 8: sub-para (2) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(iii).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 9: in sub-para (1) words "or 27A below" in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (4); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 10: sub-paras (14), (14A) substituted, for sub-para (14) as originally enacted, by SI 2009/2999, reg 47(1), (2).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 10: in sub-para (20) first words omitted repealed by SI 2009/2999, reg 47(1), (3)(a).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 10: in sub-para (20) second words omitted repealed by SI 2009/2999, reg 47(1), (3)(b).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 12: in sub-paras (1)(c), (d) words "an EEA state" in square brackets substituted by SI 2009/2999, reg 47(1), (4).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 12: sub-para (3)(c) substituted by the Policing and Crime Act 2009, s 27(1), (5); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 12: in sub-para (3)(c) word "made" in italics repealed and subsequent word in square brackets substituted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(c), with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 13: sub-para (1A) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(b).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 13: in sub-para (2)(a) words "sexual entertainment venues," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (6)(a); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 13: in sub-para (2) words ", sex encounter establishments" in square brackets, in both places they occur, inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(d), (e); with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 13: in sub-para (2) words ", hostess bars" in square brackets, in both places they occur, inserted by the London Local Authorities Act 2007, s 33(2), (6).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 13: in sub-para (2)(b) words "sexual entertainment venues," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (6)(b); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 13: sub-para (3)(d) substituted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(f); with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 13: sub-para (3)(d) further substituted by the London Local Authorities Act 2007, s 33(2), (7).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 13: sub-para (3)(d) (as originally enacted) substituted by the Policing and Crime Act 2009, s 27(1), (6)(c); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 18: in sub-para (2) words "Subject to sub-paragraph (4) below," in square brackets inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(c).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 18: sub-para (4) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(d).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 19: word "variation," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (7); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 19: word ", variation" in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(g), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 22: in sub-para (1) sum in square brackets substituted by SI 1984/447; maximum fine in sub-para (2) converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Para 23: sum in square brackets substituted by SI 1984/447.

Para 24: repealed, in so far as it empowers a constable to arrest without a warrant, by virtue of the Police and Criminal Evidence Act 1984, s 26(1).

Para 24: repealed, for remaining purposes, by the Serious Organised Crime and Police Act 2005, ss 111, 174(2), Sch 7, Pt 1, para 22, Sch 17, Pt 2.

Date in force: 1 January 2006: see SI 2005/3495, art 2(1)(m), (t), (u)(xxii).

Para 25: maximum fine in sub-para (6) converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46; sub-paras (7)-(11) inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(h), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 25A: inserted by the Policing and Crime Act 2009, s 27(1), (8); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 27: in sub-para (1) words "a magistrates' court" in square brackets substituted by SI 2005/886, art 2, Schedule, para 41(a).

Date in force: 1 April 2005: see SI 2005/886, art 1.

Para 27: in sub-para (4) definition "the relevant area" (omitted) repealed by SI 2005/886, art 2, Schedule, para 41(b).

Date in force: 1 April 2005: see SI 2005/886, art 1.

Para 27: words omitted from sub-para (6) amend the Supreme Court Act 1981, s 28(2).

Para 27: in sub-para (10) words from "except where" to "this Schedule" in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(i), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 27: sub-para (10A) inserted by the Policing and Crime Act 2009, s 27(1), (9); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 27A: inserted by the Policing and Crime Act 2009, s 27(1), (10); for transitional provisions see s 27(11), Sch 3 thereto.

Date in force: to be appointed: see the Policing and Crime Act 2009, s 116(4).

Para 28: in sub-para (1) words "by the appropriate authority" in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(j), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 30: words omitted spent.

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Local Government (Miscellaneous Provisions) Act 1982 (Commencement No 1) Order 1982, SI 1982/1119 (made under para 30(1)).

LICENSING COMMITTEE – MONDAY 20th OCTOBER 2003

SEX ESTABLISHMENT LIMITATION OF NUMBERS POLICY

1. SUMMARY

- 1.1 Members have requested a more detailed report on a possible policy on the limitation of numbers of sex establishment licences in the town and the locations where premises holding such licences may be permitted.

2. RECOMMENDATIONS

2.1. Members may wish to either:-

- (i) Agree the policy recommended in this report as Appendix 1, or,
- (ii) Agree the policy recommended in this report as Appendix 1 modified by the inclusion of any items which the Committee feel are reasonable and appropriate or by the exclusion of any part of this report.

MIKE YOUNG
Head of Environmental Services

3. BACKGROUND

- 3.1. Under the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") Local Authorities can adopt legislation which allows it to regulate sex establishments via the issue of Sex Establishment licences. The Council can impose such conditions as it feels are reasonable and necessary on the licences it issues. It may also set out a policy which limits the number of Sex Establishment Licences issued within the district.
- 3.2. The Council adopted this part of the 1982 Act (which commenced on the 1st January 1983), but set no conditions or policy regarding the operation of the resulting regulatory regime.
- 3.3. On the 28th January 2002 the Council's Licensing Committee considered a report from the Head of Environmental Services regarding the licensing of Sex Establishments. At that meeting the Committee agreed a policy for licensing such premises along with standard conditions and fees. Members also requested a further report regarding a policy for the limitation of numbers of sex establishment licences and the areas of the town which might be considered suitable for the location of such premises.
- 3.4. A report relating to the limitation of numbers in various parts of the Borough was put before the Licensing Committee on the 27th May 2002. At that meeting the Committee felt that the draft policy did not reflect the Committee's views, and declined to adopt the policy as drafted.
- 3.5. The Council has so far issued two sex establishment licences. An application for a further licence has now been received.
- 3.6. The second of the two licences issued so far was considered by the Licensing Committee on the 29th September 2003. The Committee members at that meeting stressed the importance of the Council developing further policy guidance relating to the limitation of numbers in a locality, which could assist the Committee in its consideration of future applications.
- 3.7. Officers have looked again into the development of such a policy and propose a modified version of the policy previously presented to the Committee, as attached to this report as Appendix 1.
- 3.8. The limitation of numbers across the Borough is possible, but limits can be broken down by neighbourhood and commercial areas. Crawley's easy division into distinct areas (neighbourhoods, industrial Estate, Gatwick Airport and Town Centre) makes it reasonably easy to define geographical limits to the number of sex establishment licences issued.

4. CONTENT

- 4.1. A policy for the limitation of numbers provides Council Members, Officers, Applicants and Licensees with firm guidelines on how each application and renewal will be considered, where Sex Establishment Licenses are likely to be permitted and whether there are limits on the number of licences likely to be issued in any given area.
- 4.2. In attempting to draft the best possible policy, Council officers have considered the locations around the Borough and assessed whether or not sex establishment licences could be issued in those areas.
- 4.3. **Neighbourhoods** Each neighbourhood has been created with one or more shopping parades which service the local community. The Council's own policy for neighbourhood parades is that the shops should be a range of general purpose retail premises offering

local services, e.g. post office, confectioner, public house, etc. The parades are in the centre of the neighbourhood and are in close proximity to residential premises.

- 4.4. Parades are often near schools and are visited before and after school by pupils. The family orientated nature of these parades is clear, as they offer a multitude of services. For these reasons Officers believe it to be inappropriate to grant any sex establishment licence to premises on a parade listed in Appendix 1.
- 4.5. Within some neighbourhoods there are some existing small retail premises not on a parade. Any applications for the grant of a licence for one of these existing premises, or any new premises within such neighbourhoods, must be considered on their own merits. The locality in which the premises concerned are found must also be reviewed in each case along with the nature of the other surrounding properties.
- 4.6. **Town Centre** Crawley Town Centre (as highlighted in the map attached to this report as Appendix 2) has grown over the past 10 years into a sub regional shopping centre attracting a vast number of people. A large proportion of the town Centre's visitors are from neighbouring areas. There are numerous new retail premises being constructed.
- 4.7. The Town Centre offers a wide variety of shops, varying from well known national commercial stores to independent local traders. The vast majority of these shops are enclosed within College Road, Station Way, the north end of the High Street, Pegler Way and The Boulevard.
- 4.8. The Town Centre is a diverse centre for all types of retail premises. The area has a small number of residential premises which are mostly connected to the retail businesses and are located above the shops. The area is a centre for commerce and as such should offer a variety of different retail premises to suit the public's needs.
- 4.9. The appropriate maximum number of sex establishment licences for the Town Centre is recommended to be two. This will allow fair trade and not allow any monopoly. The number of retail type premises within this area is high and two sex establishment premises would be a small percentage against other such types.
- 4.10. **Industrial Areas** The Town's Industrial Estate at Manor Royal (as highlighted in the map attached to this report as Appendix 3) has become the most important commercial centre in West Sussex. It is a major business area attracting large international companies to Crawley. It offers a vast selection of sites for businesses to utilise.
- 4.11. The town also consist of smaller commercial and industrial areas within neighbourhoods, show highlighted in the maps attached to this report as Appendix 4. These areas are mainly one or two roads in size and consist of medium and small sized warehouse and office premises.
- 4.12. These industrial areas can provide the storage and warehouse facilities needed by internet and mail order businesses, which are increasing in popularity.
- 4.13. The Industrial areas have no residential sites or schools. For this reason, and due to the wide range of premises and styles of business which could operate from these areas, Officers believe that no maximum number of sex establishment licences should be set at this time, for these areas. However Members will be able to set a limit if they wish at a later date if the nature of the locality changes in any relevant way.
- 4.14. **Gatwick Airport** Gatwick Airport has retail and food retail areas within its South and North Terminals. The Owners of Gatwick Airport, British Airport Authority (BAA) rent out units to various companies.

4.15. The traffic of passengers through the Airport has increased over the past 10 years and is set to increase in the future. The variety of people of all ages travelling through the Airport will be considerable and a high proportion of those travellers will be families visiting or leaving the United Kingdom. Officers believe that due to the nature of those using the airport, and the fact that most people would not expect to encounter sex establishments at an airport of be ready to avoid doing so if they were likely to find such premises offensive, no sex establishment licences should be permitted at either the North or South Terminal buildings.

4.16. Members will be aware that if the Council adopts this policy, it will be used to guide applicants on the Council's general views on sex establishment licences. However, as with all other policies and licences, each application will still need to be considered in the light of its own circumstances, as well as in the light of the policy. The policy, if adopted can be changed at any time. The limits on numbers can increase or decrease if the Council believes that the relevant locality has changed.

5. FINANCIAL, LEGAL AND STAFFING IMPLICATIONS

5.1 There will be no direct financial or staffing implications arising from this report.

6. OTHER IMPLICATIONS

6.1 The Human Rights Act 1998 requires Local Authorities to consider the implications of any aspect of the use or the location of the premises which may affect local residents, members of the public visiting the area or applicants and their rights to respect for their private and family life and also the peaceful enjoyment of their possessions.

7. REASONS FOR THE RECOMMENDATION

7.1. The current legislation permits sex establishments to operate: they are a legal undertaking. People are entitled to make a **choice** in whether they wish to use sex establishments. The Council can only limit the operation of sex establishments to the extent that it is necessary to do so in order to ensure that only those who have chosen to do so and are competent to make such choices are exposed to the sex establishment trade. For this reason the Council should take care to ensure that premises are not located in areas which are family orientated in nature, or where those who wish to avoid such premises are unable to do so.

7.2. In addition, the policy as attached to this report as Appendix 1 will allow the Council to set a limit on the number of sex establishment licences issued within an area. This will ensure that a saturation of such premises will not happen. This policy is believed to be the best option for the Council at the present time.

8. BACKGROUND PAPERS

8.1. Licensing Committee Minutes dated 28th January 2002
Local Government (Miscellaneous Provisions) Act 1982
Licensing Committee report ES/33 dated 27th May 2002
Licensing Committee Minutes dated 27th May 2002
Licensing Committee Minutes dated 29th September 2003

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Appendix

1. Sex Establishment Limitation of numbers and location policy.
2. Map of Town Centre.
3. Map of Industrial Estate.
4. Maps of smaller industrial areas within the Borough.

Appendix 1

CRAWLEY BOROUGH COUNCIL

SEX ESTABLISHMENT LIMITATION OF NUMBERS POLICY

Neighbourhoods, within the Borough of Crawley.

The number of sex establishment licence on any of the shopping parades listed below will be **NIL**.

Neighbourhood	Parade Name (Known as)	Street / Road
Bewbush	Dorsten Square	Dorsten Square
Broadfield	Broadfield Barton	Broadfield Barton
Furnace Green	Furnace Parade	Furnace Parade
Gossops Green	Gossops Green Parade	Gossops Drive
Ifield	Ifield Parade	Ifield Drive
Ifield West	Dobbins Place	Dobbins Place
Langley Green	Langley Green Parade	Langley place
Maidenbower	Maidenbower Square	Maidenbower Square
Northgate	Northgate Parade	Northgate Place
Pound Hill	Peter House Parade	Grattons Drive
Pound Hill	Pound Hill Parade	Worth Road
Pound Hill (Worth)	Shires Parade	Shires Parade
Southgate	Southgate Parade	Southgate Parade
Southgate West	Southgate West Parade	Downlands Place
Three Bridges	Gales Place	Gales Place
Tilgate	Tilgate Parade	Tilgate Parade
West Green	West Green Parade	Ewhurst Road

Crawley Town Centre

The maximum number of sex establishment licences for Crawley Town Centre, enclosed within College Road, Station Way, Station Road, Haslett Avenue West, Pegler Way and The Boulevard will be **TWO**.

Crawley Industrial Areas

There will be **NO** maximum number of sex establishment licences for the industrial areas within the zones shaded on the map attached.

Gatwick Airport

The maximum number of sex establishment licences within the boundary of Gatwick Airport will be **NIL**.

If any premises other than in a location stated above are the subject of an application for the grant of a sex establishment licence, the Council will consider the application on its own merits and establish the relevance of the locality of the premises. The Council will take into consideration the proximity to residential properties, proximity to schools or other educational premises, proximity to youth or community centres, whether the street is of historical importance and any other aspects of the relevant locality.

APPENDICES 2, 3 AND 4 ARE NOT INCLUDED HERE AS THEY ARE NOT AVAILABLE FOR ELECTRONIC PURPOSES.