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## Cambridge City Council

### LICENSING COMMITTEE

**To:** Councillors Smith (Chair), Rosenstiel (Vice-Chair), Benstead, Boyce, Hart, McGovern, McPherson, Pogonowski, Saunders, Shah, Stuart and Znajek

*Despatched: Friday, 14 January 2011*

**Date:** Monday, 24 January 2011

**Time:** 10.00 am

**Venue:** Committee Room 1 & 2 - Guildhall

**Contact:** Martin Whelan

**Direct Dial:** 01223 457012

### AGENDA

**1 APOLOGIES FOR ABSENCE**

**2 DECLARATIONS OF INTEREST**

Members are asked to declare at this stage any interests that they may have in an item shown on this agenda. If any member of the Committee is unsure whether or not they should declare an interest on a particular matter, they should seek advice from the Head of Legal Services before the meeting.

**3 TO APPROVE THE MINUTES OF THE MEETING HELD ON 11TH OCTOBER 2010 (Pages 1 - 6)**

**4 REVIEW OF DELEGATIONS UNDER THE GAMBLING ACT 2005 (Pages 7 - 10)**

**5 LICENSING OF SEXUAL ENTERTAINMENT VENUES - PROCEDURAL MATTERS, DELEGATION OF AUTHORITY AND THE APPROVAL OF A DRAFT SEX ESTABLISHMENT LICENSING POLICY FOR PUBLIC CONSULTATION (Pages 11 - 40)**

## ***Information for the public***

### **Public attendance**

You are welcome to attend this meeting as an observer, although it will be necessary to ask you to leave the room during the discussion of matters which are described as confidential.

### **Public Speaking**

You can ask questions on an issue included on either agenda above, or on an issue which is within this committee's powers. Questions can only be asked during the slot on the agenda for this at the beginning of the meeting, not later on when an issue is under discussion by the committee.

If you wish to ask a question related to an agenda item contact the committee officer (listed above under 'contact') **before the meeting starts**. If you wish to ask a question on a matter not included on this agenda, please contact the committee officer by 10.00am the working day before the meeting. Further details concerning the right to speak at committee can be obtained from the committee section.

### **Fire Alarm**

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**LICENSING COMMITTEE**

11 October 2010

10.00 - 10.40 am

**Present:** Councillors Smith (Chair), Rosenstiel (Vice-Chair), Benstead, Hart, McPherson, Pogonowski, Saunders, Stuart and Znajek

**Officers Present:**

Christine Allison, Licensing Manager

Martin Whelan, Committee Manager

Carol Patton, Legal Advisor

**FOR THE INFORMATION OF THE COUNCIL****10/78/lic Apologies for absence**

Apologies were received from Cllr Boyce.

**10/79/lic Declarations of Interest**

Cllr Rosenstiel declared a personal interest as a member of CAMRA.

Cllr Saunders declared a personal interest as a part time employee of Cambridge Wine Merchants.

Cllr Smith declared a personal interest in item 10/83/Lic due to her office being located on Mill Lane.

**10/80/lic Minutes of the meeting held on 19th July 2010**

The committee resolved to approve the minutes of the meeting held on 19<sup>th</sup> July 2010, subject to the addition of Cllr McPherson to the apologies list.

At the request of the Chair the Licensing Manager provided a verbal update on the taxi issues considered at the meeting in July.

**10/81/lic To note Licensing Sub-Committee minutes**

The committee noted the sub-committee minutes appended to the agenda.

Cllr Pogonowski requested that the minutes relating to the hearing on 28<sup>th</sup> June 2010 (Waitrose, Burleigh Street) were amended to reflect that the decision was not unanimous.

### **10/82/lic Public Questions**

There were no public questions.

### **10/83/lic Statement of Licensing Policy**

The committee received a report from the Licensing Manager regarding the "Statement of Licensing Policy". The committee were advised that the proposed revised policy had been subject to 12 weeks consultation.

The Licensing Manager drew the attention of the committee to the request from the Police to extend the City Centre Cumulative Impact Area to include Hills Road (City to Purbeck Road) and the Cambridge Leisure Park Area to include to Cherry Hinton Road. It was noted that the proposed revisions to cumulative impact areas would be subject to separate consultation.

Members of the committee made the following comments regarding the proposed policy

- i) A small number of typographical changes were proposed to the policy.
- ii) The request from the Police to extend the areas covered by cumulative impact areas was welcomed. It was requested that consideration should be given to joining up the areas between cumulative impact areas, with specific reference given to the area between Hills Road and Mill Road. The Licensing Manager advised that other authorities had been challenged for an area being too large.
- iii) Based on the evidence presented in the report it was suggested that the City Centre Area should cover the Mill Pond area.

- iv) The committee noted the ongoing consultation regarding changes to the licensing process. It was suggested that in future it might be possible to have a general policy of presumption against approval.
- v) The ability of the city council to proactively extend or revise the cumulative impact areas was questioned. The Licensing Manager confirmed that any changes needed to be based on evidence.

The Divisional Licensing Officer and the Police Analyst responded to questions asked by members of the committee.

- i) The Divisional Licensing Officer confirmed that the police responded to all calls for service equally irrespective of whether or not they came from a cumulative impact area or not.
- ii) The Divisional Licensing Officer responded to the suggestion regarding the area between Hills Road and Mill Road, and advised that due to the nature of the area there was a low density of licensed premises. The Police Analyst advised that the whole city had been reviewed in the preparation of the response, and areas with a high density of licensed premises and high prevalence of violent crime had been highlighted.
- iii) In response to the suggestions regarding the Mill Pond the committee were advised that there was a low level of violent crime and the majority of licensed premises were restricted to members of the university.
- iv) In future it was suggested that any analysis should also cover areas of high prevalence of violent crimes and low density of licensed premises.

The committee resolved (unanimously) to

- i) Endorse the inclusion of a special policy on cumulative impact relating to all types of premises (both on and off licences) in the Statement of Licensing Policy.
- ii) Agree that the special policy on cumulative impact is to continue in relation to the three existing areas:
  - i. The City Centre
  - ii. Cambridge Leisure Park

**iii. Mill Road**

- iii) Recommend that Full Council adopt the new statement of licensing policy and that the updated data provided by the police is included to replace the previous police data contained within the existing policy.
- iv) Note the new request from the police concerning the section of Hills Road running from the city to Purbeck Road and extension of the Leisure Park area to include the section of Cherry Hinton Road running from Hills Road to Clifton Road.
- v) Approve the commencement of public consultation as to whether the special policy on cumulative impact should be adopted/extended for the areas outlined in paragraph .iv of the resolution.

**10/84/lic Licensing Act 2003 - update on minor variations**

The committee received a report from the Licensing Manager regarding the use of the minor variation process.

The committee resolved (unanimously) to

- i) Continue with the existing procedures for processing applications and determining applications and to retain the existing scheme of delegation, as agreed by Licensing Committee on 24 August 2009, to the Head of Refuse and Environment (previously Head of Environmental Services).

**10/85/lic Licensing of Sexual Entertainment Venues**

The committee received a report from the Licensing Manager regarding the licensing of sexual entertainment venues.

The committee sought clarification on a number of points raised in the report, including the implications of not adopting the provisions. It was noted that conditions including those related to off-site advertising would be considered at a future meeting.

The committee resolved (unanimously) to recommend to Council that

- i) Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, shall apply to the Cambridge City Council area with effect from 1st December 2010.
- ii) The licensing and regulatory functions and responsibilities are delegated to the Licensing Committee.

The meeting ended at 10.40 am

**CHAIR**

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## CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Refuse & Environment

TO: Licensing Committee

24<sup>th</sup> January 2011

WARDS: All

### **REVIEW OF DELEGATIONS UNDER THE GAMBLING ACT 2005**

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#### **1 INTRODUCTION**

- 1.1 The purpose of this report is to review and consolidate the delegations table relating the Gambling Act 2005 and to formally record its adoption.

#### **2 RECOMMENDATIONS**

- 2.1 That the Licensing committee resolves: To adopt the table of delegations as set out in Appendix A to this report with immediate effect.

#### **3 BACKGROUND**

- 3.1 The functions of the licensing authority are delegated to the Licensing Committee by virtue of section 154 of the Gambling Act 2005, with only three exceptions which remain the function of the full Council: (i) a no casino resolution and (ii) the three-year licensing policy, neither of which can be delegated and (iii) fees, which may be delegated. The delegation to sub-committees and officers therefore is a matter for the Licensing Committee to determine.
- 3.2 On 5<sup>th</sup> and 20<sup>th</sup> July 2006 a report went to the Licensing Committee and Full Council, respectively, containing a table setting out the scheme of delegations permitted under the Gambling Act 2005. On 7<sup>th</sup> December 2006, a further report went to the Licensing Committee transferring responsibility for small society lotteries from City Centre Management to the Head of Refuse and Environment.
- 3.3 A new 3<sup>rd</sup> Edition of the Gambling Commission's guidance came out in May 2009 and the attached scheme has been compiled taking this latest guidance into account.
- 3.4 The Licensing Committee is recommended to adopt the reviewed scheme of delegation to enable efficient administration of the Council's functions under the Gambling Act 2005.

#### **4 ISSUES AND OPTIONS**

- 4.1 If a scheme of delegation to officers were not adopted, all functions would need to be undertaken by the full Licensing Committee. The adoption of a scheme of delegation permits the speedier and more cost effective streamlining of processes, where applicable.

## 5 CONCLUSION

The Authority has a duty to ensure that it is able to perform its statutory functions and that the necessary procedures are in place to permit this.

## 6 IMPLICATIONS

- |   |                                      |
|---|--------------------------------------|
| (a) <b>Financial Implications</b>           | None, the same licensing fees apply. |
| (b) <b>Staffing Implications</b>            | None, in current procedures.         |
| (c) <b>Equal Opportunities Implications</b> | None.                                |
| (d) <b>Environmental Implications</b>       | None.                                |
| (e) <b>Community Safety</b>                 | None.                                |

### BACKGROUND PAPERS:

The following are the background papers that were used in the preparation of this report:

Gambling Commission Guidance to Licensing Authorities, 3<sup>rd</sup> Edition, May 2009.

The author and contact officer for queries on the report is Christine Allison on ext 7899

Report file: M:/Everyone/Licence/ Review of Gambling Delegations report 2401  
2011.doc

Date originated: 22<sup>nd</sup> December 2010  
Date of last revision: 22<sup>nd</sup> December 2010

## Appendix A

**Table 4.i: Summary of licensing authority delegations permitted under the Gambling Act 2005**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of licensing committee</b>	<b>Officers</b>
Final approval of three year licensing policy	x		
Policy not to permit casinos	x		
Fee setting (when appropriate)			X (Delegated by full council)
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		x	
Application for club gaming/club machine permits		Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		x	
Applications for other permits			x
Cancellation of licensed premises gaming machine permits			x
Consideration of temporary use notice			x
Decision to give a counter notice to a temporary use notice		x	
Grant and renewal of applications for small society lotteries			x

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## CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Refuse and Environment (HRE)  
Head of Legal Services

TO: Licensing Committee

24 January 2011

WARDS: All

### **LICENSING OF SEX ESTABLISHMENTS - PROCEDURAL MATTERS, DELEGATION OF AUTHORITY AND THE APPROVAL OF A DRAFT SEX ESTABLISHMENT LICENSING POLICY FOR PUBLIC CONSULTATION**

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#### **1 INTRODUCTION**

- 1.1 Section 27 of the Policing and Crime Act 2009 introduced a new category of sex establishment called 'sexual entertainment venues' (SEV's) and gives local authorities in England and Wales the power to regulate lap dancing clubs and similar venues under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 The new powers enable these types of establishment to be licensed in the same way as sex shops, rather than as pubs and clubs and give local councils greater scope and discretion as to how those venues are controlled within their areas. The new measures came into effect on 6<sup>th</sup> April 2010.
- 1.3 On 11<sup>th</sup> October 2010, the Licensing Committee recommended to full council that Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, shall apply to the Cambridge City Council area with effect from 1<sup>st</sup> December 2010. On 21<sup>st</sup> October 2010 full council resolved to adopt the amendment with delegation of the regulatory functions and responsibilities to the Licensing Committee.
- 1.4 The adoption of the new powers started a 12-month transitional process for the one existing lap-dancing club in Cambridge City and will provide a framework for any future applications of this nature.
- 1.5 The purpose of this report is to put the necessary steps into place to enable the authority to exercise their functions in licensing SEV's as sex establishments.

#### **2. RECOMMENDATIONS**

2.1 That the Licensing Committee resolves:

- 2.1.1 To delegate to the Licensing Sub-Committees the determination of applications for Sex Establishment licences under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended, including

applications for new licences, variations, transfers and renewals of licences where relevant objections have been received.

- 2.1.2 (a) To delegate to the Head of Refuse and Environment the determination of applications for Sex Establishment licences under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as amended, including applications for new licences, variations, transfers and renewals of licences: where no relevant objections have been received.
- (b) To delegate to the Head of Refuse and Environment all enforcement and inspection functions relating to Sex Establishments
- 2.1.3 To set the fees for SEV applications at the same level as for existing Sex Establishments (currently £4,549 for new applications, transfers and variations and £699 for renewals), and to delegate fee reviews to the Head of Refuse and Environment, in consultation with the Chair and Spokesperson of the Licensing Committee.
- 2.1.4 To approve the draft Sex Establishment Licensing Policy attached at Appendix 1 to this report for public consultation, including the current model conditions for Sex Establishments, attached as Appendix A to the draft policy and model conditions to encompass the new category of SEV, attached as Appendix B to the draft policy.
- 2.1.5. To approve the hearings procedure, attached at Appendix 2 to this report.

### 3. **BACKGROUND**

- 3.1 **History.** Since the introduction of the Licensing Act 2003 in November 2005, the Council, acting as the Licensing Authority, has exercised its statutory function to license premises selling/supplying alcohol, providing late night refreshment and providing regulated entertainment. This includes live and amplified music, dancing and dance performances. Under the Licensing Act 2003, if no relevant representations relating to any of the four licensing objectives have been made, all applications must be granted, as applied for. Only responsible authorities or interested parties living/working in the vicinity can make representations. Premises licences are granted for the life of the business and although they can be reviewed, this mechanism is rarely used.
- 3.2 In contrast, sex shops and sex cinemas are classified as sex establishments, licensed under the Local Government (Miscellaneous Provisions) Act 1982. The regime gives the council a wider discretion in determining whether to grant or refuse licences, a power to set a limit on the number of premises that may be suitable in a particular locality, greater flexibility on applying licence conditions and the ability to accept representations from a wider scope of the community. Sex shop licences are only valid for up to one year, giving greater scope for review.
- 3.3 To address concerns about the growth and operation of lap-dancing / similar venues and recognition that the existing legislation did not give communities sufficient powers to control where such clubs were established, section 27 of the

Policing and Crime Act 2009 created a new class of licensed sex establishment, the sexual entertainment venue. The new provisions give local authorities more powers to control where and how many SEV's open and operate in their areas.

- 3.4 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, relating to sex shops was adopted by full council on 19<sup>th</sup> October 1989 and the adoption was advertised in the Cambridge Evening News on 27<sup>th</sup> October 1989.
- 3.5 On 21<sup>st</sup> October 2010 the full council resolved to adopt the amended provisions introduced by section 27 of the 2009 Act as it relates to the new category of SEV's with effect from 1<sup>st</sup> December. In accordance with the regulations, this was advertised in the Cambridge Evening News on 27<sup>th</sup> October and 3<sup>rd</sup> November 2010.
- 3.6 On 21<sup>st</sup> October 2010, full council also delegated the licensing and regulatory functions to the Licensing Committee.
- 3.7 The meanings of 'sexual entertainment venue' and 'relevant entertainment' are now defined in the 1982 Act, as amended. A SEV is '*any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer*'. 'Relevant entertainment' is '*any live performance or 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 verbal or other means)*'
- 3.8 **Guidance** The Government has produced Guidance for local authorities, which 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 local authorities in England and Wales.
- 3.9 Guidance suggests that while each local authority should judge each case on its individual merits, the definition of relevant entertainment could apply to the following forms of entertainment:
- Lap dancing
  - Pole dancing
  - Table dancing
  - Strip shows
  - Peep shows
  - Live sex shows

This list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, should only be treated as indicative. An audience can consist of just one person (e.g. private booths). The guidance gives further assistance on the definition of a 'display of nudity' and examples of when a licence may or may not be required.

- 3.10 **Timetable for implementation and impact on existing businesses.** The 1<sup>st</sup> December 2010, the day the resolution came into force, is known as the 'first appointed day' and marked the start of a 12-month transitional period. Six months following the 'first appointed day' i.e. 1<sup>st</sup> June 2011 becomes the 'second appointed day' and the day on which the transition period ends i.e. 30<sup>th</sup> November 2011 the '3<sup>rd</sup> appointed day'.

- 3.11 There is currently only one premises within Cambridge City known to be offering 'relevant entertainment' in the form of lap-dancing that will need to apply for a SEV licence under the transitional arrangements in order to continue operating. The decision to adopt the amended Schedule 3 only applies to the relevant 'adult' entertainment element provided in a SEV. Alcohol sales, late night refreshment and other forms of regulated entertainment at the premises will still require a premises licence under the Licensing Act 2003.
- 3.12 To allow time to comply with the new regime, the existing operator will be allowed to use the premises as a SEV under the Licensing Act premises licence until the 3<sup>rd</sup> 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 the later.
- 3.13 **New applicants/ application procedure.** New applicants who do not already have a premises licence or club premises certificate to operate as such after the 1<sup>st</sup> appointed day will not be able to operate as a SEV until they have been granted a SEV licence. No applications can be determined before the 2<sup>nd</sup> appointed day.
- 3.14 No business will be able to operate without a SEV licence after the third appointed day. To do so would be an offence, which on summary conviction attracts a maximum fine of £20,000.
- 3.15 There is no prescribed application procedure, however applicants must advertise the application in a local newspaper and copy their application to the police within 7 days. They must display a notice for 21 days. Objections can be received for a period of 28 days on relevant grounds (not moral grounds) and objections will be considered at a hearing. It is recommended that the licensing committee delegate this to licensing Sub-Committees, as is currently the case for Licensing Act 2003 matters. Appeals will be heard in the Magistrates' Court. Application forms will be made available on the council's website.
- 3.16 **Exemptions – premises that are not Sex Entertainment Venues**
- Sex shops and sex cinemas, which are separately defined in the 1982 Act
  - Premises providing relevant entertainment on an infrequent basis i.e.:
    - (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 order of the Secretary of State.
- 3.17 **Waivers-** the council may waive the requirement for a licence under the 1982 Act if it is considered that to require a licence would be unreasonable or inappropriate. Such a waiver may last for a period the council think fit, but can be terminated at any time with 28 days notice.
- 3.18 **Delegation of powers to the Head of Refuse and Environment** Full Council have delegated the licensing and regulatory functions and responsibilities to the Licensing Committee, which form the content of this report. It is recommended



that the Licensing Committee further delegate powers to the Head of Refuse and Environment, for example, uncontested applications, the setting of fees, enforcement and inspection matters.

- 3.19 **Fees.** Premises licence fees under the Licensing Act 2003 are set by the government relative to the rateable value of the premises, whereas discretion is given to the council to set fees for SEV licences under the 1982 Act. The current fee for sex shops is £4,549 for new applications, variations and transfers and £699 for renewals. Any fees charged must be reasonable and proportionate to the costs incurred and must not exceed those costs. They must not be set as an economic deterrent or to raise revenue for the local authority. Application fees do not include enforcement costs. This report recommends that the level of fees for SEV applications be set at the same level as for existing sex establishments.
- 3.21 **Enforcement and inspection matters.** It is recommended that enforcement and inspection matters be delegated to officers.
- 3.22 **Terms, conditions and restrictions** can be imposed on a licence. The Provision of Services Regulations 2009 require any conditions to be necessary, non-discriminatory and proportionate. In practical terms this means that conditions must demonstrably be directed at attaining one of the public interest objectives of the Regulations (public policy, public security, public health, or the protection of the environment) and must go no further than is necessary to achieve such objectives. We have model standard conditions that have been applied to the two current sex establishment licences and it is proposed that they continue in their current format. The conditions appear in the draft licensing policy as Appendix A. The council already has model conditions for exotic dancing and it is proposed that they be adopted for SEV's. The conditions appear in the draft licensing policy as Appendix B. Only one amendment is proposed, general condition 25, which has been updated to reflect Challenge 21.
- 3.23 **Numbers and relevant locality** Schedule 3 of the 1982 Act allows the council to refuse applications on grounds related to the assessment of the "relevant locality". It can also make an assessment as to the 'character' of the relevant locality and how many, if any, sex establishments or sex establishments of a particular kind, it considers are appropriate for that relevant locality. We currently have no limits on numbers for Sex Establishments, with all applications being considered on their individual merits.
- 3.24 **Hearings procedure**  
The council's existing hearings procedure for Sex establishments has been revised and updated to reflect both changes in legislation and conformity with other regulatory hearings procedures. Hearings procedures do not form a part of licensing policy statements so do not require public consultation. A copy of the proposed revised sub-committee hearings procedure is attached as Appendix 2 to this report, for approval by the licensing committee.
- 3.25 **Licensing policy.** Although local authorities are not required to produce a statement of licensing policy relating to sex establishments, they may do so if they wish, so long as it does not prevent any individual application from being considered on its own merits at the time the application is made. Policies can contain matters such as conditions, appropriate locations, limits on numbers etc. The current practice for licensing sex shops within Cambridge city is to follow a

standard operating procedure document, which sets out matters including the application and consultation process to be followed. Both current sex shop licences have the same model standard conditions attached. Any changes to the model conditions are determined by the licensing committee. These current practices could be extended to include SEV's.

- 3.26 However, Government Guidance recommends that it would be good practice for Licensing Authorities to have a statement of licensing policy for Sex Establishments. The initial draft, any reviews and any changes to the policy would need to undergo public consultation. It is also considered good practice to review the policy. It is recommended that it be reviewed every five years, in line with the Police Reform and Social Responsibility Bill proposed amendment for Licensing Act 2003 policies.

#### 4. **CONSULTATIONS**

- 4.1 As the Council adopted the amendment with effect from 1<sup>st</sup> December 2010, there was no requirement to undertake public consultation at that stage.
- 4.2 If committee decides that a statement of licensing policy is appropriate, the draft needs to undergo public consultation in accordance with the Government's Code of Practice. We propose to consult widely with the public, statutory authorities, including the police, businesses likely to be affected and existing and potential premises licence holders. Consultation will be undertaken for 12 weeks between the 31<sup>st</sup> January 2011 and 26<sup>th</sup> April 2011. All comments will be reported back to the licensing committee for consideration after the close of the consultation period.

#### 5. **ISSUES AND OPTIONS**

- 5.1 Having adopted the amendment introduced by section 27 of the 2009 Act, the Council now has the power to regulate sex entertainment venues as sex establishments under Schedule 3 to the 1982 Act. Committee need to determine the matters stated in paragraph 2.1 to enable them to exercise their statutory function to regulate and licence lap dancing and other sexual entertainment venues in the same way as sex shops, rather than as pubs and clubs. The establishment of procedures, conditions and delegated powers will give greater scope and discretion to the council as to how SEV's are controlled within the area.

#### 6. **CONCLUSIONS**

- 6.1 Full Council has delegated the licensing and regulatory functions and responsibilities to the Licensing Committee for further consideration. The recommendations set out in paragraph 2.1 address those considerations for committee to determine, to enable them to undertake the processing etc. of applications for SEV's.

#### 7. **IMPLICATIONS**

##### (a) **Financial Implications**

- (i) Schedule 3 to the 1982 Act states that the application for grant, renewal, variation or transfer of a sex establishment licence shall pay a reasonable fee,

but gives discretion to the council. The Provision of Services Regulations 2009 require that any fees charged must be reasonable and proportionate to the costs incurred and must not exceed those costs (excluding enforcement).

(ii) There is a cost to the Council of undertaking public consultation.

(b) **Staffing Implications**

The new procedures will be processed as an additional workload, but within existing staff resources. The additional workload arising from the consultation process will also be absorbed within existing staff resources.

(c) **Equal Opportunities Implications**

Section 149 of the Equality Act 2010 obliges public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity between the sexes and to foster good relations between the sexes. The Council will be able to attach conditions to licences as appropriate, for example to protect performers from harassment and any threat to their dignity and to address any suggestion that women may be less welcome in premises than men. The fears of women and vulnerable persons using the vicinity of the premises can be addressed in decisions as to the locations of such facilities and by conditions. An Equalities Impact Assessment (EqIA) has been compiled addressing perceived equality issues and this will be reviewed at the close of the consultation period after consideration of the consultation responses.

(d) **Environmental Implications**

The environmental implications for the relevant locality are one of the matters that the Committee should consider in determining each request.

(e) **Community Safety**

The Government's intention is to give local people a greater say over the number and location of sexual entertainment venues within their area and its introduction followed consultation with local authorities which highlighted concerns that the existing legislation did not give communities sufficient powers to control where lap-dancing clubs were established. The adoption of the amendment and associated procedures will provide checks and balances to ensure greater community involvement. We will undertake consultation with the police.

(f) **Human Rights**

The following human rights are potentially engaged:

Article 10 – the right to freedom of expression, Article 1 of the First Protocol – the right to the peaceful enjoyment of possessions;

Section 19 of the Human Rights Act 1998 requires a Minister of the Crown in charge of a Bill to make a written statement of compatibility with the rights conferred by the European Convention on Human Rights. While the Local Government (Miscellaneous Provisions) Act preceded the Human Rights Act, the provisions of the Policing and Crime Act 2009 post-dated it. Therefore in considering the application of the provisions relating to sexual entertainment venues the Council can be assured that the wide powers they have been given to control SEV's have themselves been validated in human rights terms.

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

Local Government (Miscellaneous Provisions) Act 1982

To inspect these documents contact Christine Allison on extension 7899

The author and contact officer for queries on the report is Christine Allison on extension 7899

Report file: M/Everyone/Licence/Sex shop lic/committee reports/L11-2401.doc

Date originated: 7 December 2010

Date of last revision: 12 January 2011



**CAMBRIDGE CITY COUNCIL**

**CONSULTATION DRAFT**

**SEX ESTABLISHMENT LICENSING POLICY**

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## **1. The City of Cambridge**

- 1.1 Cambridge is a unique blend of market town, sub-regional centre, national and international tourist attraction and centre of excellence for education and research. It is a city of great beauty and is renowned for the qualities of its streets, spaces and buildings.
- 1.2 Cambridge City Council, in association with local partnerships wants Cambridge to be vibrant, socially mixed, safe, convenient and enjoyable, where all residents feel integrated into the life of the City and a part of its success.
- 1.3 Cambridge City Council has a clear vision for the future of the City, a vision shared with Cambridge citizens and partner organisations. Our vision includes:
  - A city that is diverse and tolerant, values activities which bring people together and where everyone feels they have a stake in the community
  - A city where people behave with consideration for others and where harm and nuisance are confronted wherever possible without constraining the lives of all
- 1.4 The overarching objectives of Cambridge City Council in licensing Sex Establishments are to:
  - Promote the Authority's visions and values
  - Protect the rights and health and safety of the general public, workers, residents, businesses, minority and vulnerable groups and
  - Ensure the principles of consistency, transparency, accountability and the promotion of good standards in licensing
  - Demonstrate compliance with statutory responsibilities in relation to procedures and enforcement
  - Ensure consistent and transparent decision making

## **2. Introduction**

- 2.1 The Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) does not require the publication of a sex establishment licensing policy, however we recognise the benefits of having such a policy. A sex establishment licensing policy can play a pivotal role in the achievement of the pattern, number and standards of sex establishments within the City.
- 2.2 This document sets out the policy which will guide the Licensing Authority when considering applications and will generally be applied when making decisions on applications.
- 2.3 We will determine each application on its individual merits and this policy should not be regarded or interpreted as an indication that any requirement of the relevant law may be overridden.
- 2.4 We may depart from this policy if, in the interests of the promotion of the objectives, the individual circumstances of any case merit such a decision. We will give full reasons for departing from the policy.

- 2.5 The 1982 Act introduced a licensing regime to control Sex Establishments. On 19<sup>th</sup> October 1989, Cambridge City Council resolved to bring into force from 27<sup>th</sup> November 1989 Schedule 3 of the Act, which provided for the control of sex establishments (i.e. sex shops and sex cinemas).
- 2.6 Section 27 of the Policing and Crime Act 2009 (the 2009 Act), which came into force on 6th April 2010, amends Schedule 3 to the 1982 Act, providing for the control of a new category of sex establishment called a Sexual Entertainment Venue. The amendment allows councils to regulate lap dancing clubs and similar venues as sex establishments. On 21<sup>st</sup> October 2010, Cambridge City Council resolved that Schedule 3 to the 1982 Act as amended by section 27 of the 2009 Act should apply to the Cambridge City Council area commencing from 1<sup>st</sup> December 2010.
- 2.7 In carrying out our licensing functions, we will have regard to the following:
- 2.7.1 The Local Government (Miscellaneous Provisions) Act 1982
  - 2.7.2 Any supporting regulations
  - 2.7.3 Guidance issued by Central Government
  - 2.7.4 This statement of licensing policy

We must also fulfil our obligations under s17 of the Crime and Disorder Act 1998, to do all that we reasonably can to prevent crime and disorder in Cambridge.

- 2.8 The Policy should be read in conjunction with, and without prejudice to, other existing national and European Union legislation, including the Human Rights Act 1998, the Equality Act 2010, the Disability Discrimination Act 1995, the Provision of Services Regulations and the Regulators' Compliance Code (as set out under the Regulatory Reform Act 2006).
- 2.9 The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and victimisation; and to promote equality of opportunity and good relations between persons of different racial groups.
- 2.10 In carrying out our licensing functions we will have regard to equality and will expect an applicant to meet their statutory obligations in this area and not unlawfully discriminate against anyone on the grounds of age, gender, race, sexual orientation, disability, gender reassignment, religion or belief.
- 2.11 We do not take a moral stand in adopting this policy. We recognise that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is our role as the licensing authority to administer the licensing regime in accordance with the law.
- 2.12 The 1982 Act and the 2009 Act can be viewed at [www.opsi.gov.uk](http://www.opsi.gov.uk)

### **3. Consultation**

- 3.1 In preparing this policy statement we have consulted with the following:



- the Chief Officer of Police for Cambridgeshire
  - the Chief Officer of the Cambridgeshire Fire and Rescue Service
  - persons/bodies representative of local holders of premises licences
  - persons/bodies representative of local holders of club premises certificates
  - persons/bodies representative of businesses and residents in the City of Cambridge
  - the child protection agency
  - other organisations as appear to the Licensing Authority to be affected, including councillors, local community, cultural, educational and entertainment organisations.
- 3.2 We consulted on this policy between 31st January 2011 and 26<sup>th</sup> April 2011 and was (*will be considered*) approved by Licensing Committee on (6<sup>th</sup> June 2011 - *to be confirmed*)
- 3.3 We have considered the views of all those consulted prior to determining this policy.

#### **4. Sexual Entertainment Venues**

Sex establishment licences are required for

- 4.1 *'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.'*
- 4.2 '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).
- 4.3 In deciding whether entertainment is "relevant entertainment" We will judge each case on its' individual merits, however we would expect that the following forms of entertainment as they are commonly understood will be "relevant entertainment":
- Lap dancing
  - Pole dancing
  - Table dancing
  - Strip shows
  - Peep shows
  - Live sex shows
  - Topless Bars
  - Premises where private entertainment booths are present

This list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, should be treated as indicative only. Ultimately, decisions as to whether entertainment is "relevant entertainment" will depend on the content of the entertainment and not the name it is given.

- 4.4 The following premises are not sexual entertainment venues:
- Sex shops and sex cinemas



- Premises which provide relevant entertainment on an infrequent basis. These are premises where-
    - a) relevant entertainment has been provided on no 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.
- 4.5 Premises providing relevant entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003 (the Licensing Act).
- 4.6 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 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 express or implied.

## **5. Sex shops and sex cinemas**

- 5.1 Sex Establishment Licences are required for “sex cinemas” and “sex shops”. “Sex shop” means any premises, vehicle, vessel or stall that is used for a business which consists to a “significant degree” of selling, hiring, exchanging, lending, displaying or demonstrating with “sex articles”.
- 5.2 The phrase “sex articles” is defined in the 1982 Act, but the phrase “a significant degree” is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider:
- the ratio of sex articles to other aspects of the business
  - the absolute quantity of sales
  - the character of the remainder of the business
  - the nature of the displays in the business
  - turnover
  - other factors which appear to be materially relevant

## **6. Requirement for a Licence**

- 6.1. Any person wishing to operate a sex establishment as defined by Schedule 3 to the 1982 Act requires a sex establishment licence, unless we have waived the requirement for a licence.
- 6.2 We will normally grant a licence for a period of one year, but we may exercise our discretion to issue a licence for a shorter period if we consider this to be appropriate.

## **7. Waiver**

7.1 We may, upon application, waive the requirement for a licence in any case where we consider that to require a licence would be unreasonable or inappropriate.

7.2 Waivers may be granted to;

- Book shops, including shops where sale of DVD's and CD's are present
- Sexual Health Clinics
- Cases where we consider that the requirement for a licence is borderline, where events are minor or temporary, or where clarity or regularisation is required.
- Educational Establishments as part of a recognised educational curriculum

7.3 We will consider each application for a waiver on its individual merits, however, any establishment that would normally require a licence under the provisions of the 1982 Act is unlikely to be granted a waiver other than in exceptional circumstances.

7.4 In order for a waiver to be considered, an applicant must provide the basic information included in the application form, and any other information that we may reasonably require in order to make our decision.

7.5 A waiver may be for such period as the Licensing Authority thinks fit. Where we grant an application for a waiver, we will give notice to the applicant stating the application has been granted. We may at any time give a person who would require a licence but for a waiver, notice that the waiver is to terminate, on a date not less than 28 days from the date on which we give the notice, or as may be specified in the notice.

## **8. The Licensing Act 2003**

8.1 Premises holding a sexual entertainment venue licence will not require a premises licence under the Licensing Act 2003 unless the premises is carrying on other licensable activities e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment.

8.2 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 Licensing Act.

8.3 Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment licence, but will instead need an appropriate authorisation under the Licensing Act, for example to cover the performance of dance. An exemption for live music or the playing of recorded music, which is integral to the entertainment, does not apply to such venues.

## **9. Location of Licensed Premises**

9.1 We have not imposed a limit on the number of premises that may be licensed in any area of the City, however, whilst deciding each application upon its

own merits we will not normally licence premises that are in close proximity to:

- 9.1.1 a residential area
  - 9.1.2 a school, nursery or any other premises substantially used by or for children under 16 years of age;
  - 9.1.3 a park or other recreational areas used by or for children under 16 years of age;
  - 9.1.4 a church or other place of religious worship;
- 9.2 In addition, we will consider public safety issues when determining whether an area is appropriate; for example, areas that attract a high percentage of female, elderly or young users may be considered to be inappropriate. Where we receive an application, which we consider to be within close proximity to those areas or premises identified in paragraph 9.1, the application will not be automatically refused. Applications presenting genuinely exceptional circumstances may be granted.
- 9.3 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a sex establishment.
- 9.4 We would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

## **10. Commenting on licence applications**

- 10.1 A wide range of people can raise objections about sex establishment licences. The Police are a statutory consultee for all applications.
- 10.2 We can only consider objections that are relevant to the statutory grounds for refusal set out in the 1982 Act and are received within the 28-day period for making objections.
- 10.3 We will notify applicants of any observations made by the Chief Officer of Police and provide details in general terms of objections that we have received within the 28-day period. We will not without the consent of the person making the objection reveal his/her name or address to the applicant.
- 10.4 Where no relevant objections are made, or objections are withdrawn, officers will grant the licence under the scheme of delegated powers.
- 10.5 Licensing Sub-Committee will consider all applications where there are relevant objections. We will give both applicants and objectors an equal opportunity to state their case in accordance with our hearings procedure.
- 10.6 We will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Our officers will make decisions on whether objections are frivolous or vexatious. Where objections are rejected the objector will be given a written reason.

## **11. Determining Applications**

- 11.1 In considering any application for the grant, renewal or transfer of a licence we will have regard to any observations submitted by the Chief Officer of Police and any relevant objections that we have received within the 28-day period.
- 11.2 Where we refuse to grant, renew or transfer a licence, we will send notice of the reasons for our decision to the applicant within seven days.
- 11.3 An applicant must be a suitable person to hold a licence. In determining suitability for a new licence, or a transfer of an existing one, we will consider all relevant information including the following:
- Previous relevant knowledge and experience of the applicant;
  - The operation of any existing or previous licence(s) held by the applicant, including any licence held in any other area.
  - Any report about the applicant and management of the premises received from statutory objectors.

## **12. Terms, conditions and restrictions**

- 12.1 We may impose terms, conditions and restrictions on the grant of a licence. Where imposed, these will be necessary, non-discriminatory and proportionate.
- 12.2 We have model conditions relating to sex establishments and sexual entertainment venues. The conditions which may be attached to a licence are set out in Appendices A and B to this policy.
- 12.3 We will consider all applications on an individual basis and may impose additional or alternative conditions tailored to individual premises.

## **13. Grounds for refusal**

### **The 1982 Act sets out mandatory and discretionary grounds for refusal of a licence.**

- 13.1 We will not grant a licence;
- 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) of Schedule 3 to the 1982 Act; 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.
- 13.2 We may refuse:

- i) an application for the grant or renewal of a licence on one or more of the grounds listed in a) – d) below:
- ii) an application for the transfer of a licence on either or both of the grounds specified in paragraphs a) and b) below:

The grounds 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 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 determined is equal to or exceeds the number which the Licensing Authority consider is appropriate for that locality. Nil may be the appropriate number.
- d) that the grant or renewal of a licence would be inappropriate having regard to the character of the relevant locality, or to the use to which any premises in the vicinity are put, or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

13.3 The 'relevant locality' means: in relation to premises, the locality where they are situated; and in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

13.4 We have not made a decision to determine the number of sex establishment premises appropriate for the City of Cambridge however this may be subject to review.

13.5 We may refuse applications for a sex establishment licence where we are not satisfied that the application has been advertised in accordance with the requirements of the 1982 Act.

13.6 We may refuse to accept an application where we consider that relevant information has been omitted or an application is incomplete.

#### **14. Hearing**

14.1 Where relevant objections have been made we will give applicants the opportunity of appearing before the Licensing Sub-Committee.

14.2 We will advise the applicant and objectors of the date, time and venue of the hearing.

14.3 A copy of the committee report will be published on our website at least 5 days prior to the hearing. The report will contain a summary of the application, objections and any other relevant information.

14.4 The hearing will be conducted in accordance with our hearings procedure.

14.5 The Licensing Sub-Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation of the decision within seven days.

14.6 Whilst the Act does not stipulate a timescale for hearing applications, where objections have been submitted and accepted, we aim to determine an application within 20 working days from the close of the 28-day period for receiving objections.

14.7 Applicants have a right of appeal to a Magistrates Court.

## **15. Enforcement**

15.1 We will establish protocols with the police and any other relevant enforcement body on enforcement issues. These protocols will target agreed problems and high-risk premises, which require greater attention, while providing a lighter touch approach in respect of low risk premises that are well run.

15.2 In general, action will only be undertaken in accordance with the Council's enforcement policy, as adopted at the time, which reflects the Council's obligations relating to enforcement and is consistent with the Regulators Compliance Code. To this end, the key principles of consistency, openness, proportionality, clear standards and practices, courtesy and helpfulness and training will be maintained.

15.3 Cambridge City Council's enforcement policy is available on our website: <http://www.cambridge.gov.uk/ccm/content/council-and-democracy/how-the-council-works/council-policies-and-plans/enforcement-policy.en>

## **16. Amendments to Policy**

16.1 Any significant future amendment to this policy will only be implemented after further consultation.

For the purpose of this section, any significant amendment is defined as one that:

(a) is likely to have a significant financial effect on the licence holders, or

(b) is likely to have a significant procedural effect on the licence holders, or

(c) is likely to have a significant effect on the community.

16.2 Any minor amendments to this Policy may be authorised by the Licensing Committee.

16.3 We retain the right to review the policy as deemed necessary, or as required due to legislative changes and Government guidance.

## **17. Integration with Council Strategies and the avoidance of duplication**

17.1 By consultation and liaison, we will secure the proper integration of this policy with local crime prevention, planning, transport, tourism, race equality and equal opportunity schemes, cultural strategies and any other plans introduced for the management of the City and the night-time economy.

17.2 So far as is possible, the policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators.

17.3 It is likely that certain aspects of the activities of a sex establishment will be licensed under the Licensing Act 2003 e.g. a bar in a lap-dancing club. We will not normally attach conditions to a sex establishment licence, which can just as well be attached to a premises licence under the 2003 Act.

## **18. Exchange of information**

18.1 We may from time to time exercise our powers under section 115 of the Crime & Disorder Act 1998 to exchange data and information with the police and other partners to fulfil our statutory objective of reducing crime in the area.

18.2 Details of applications and objections which are referred to a Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

## **19. Administration, exercise and delegation of functions**

19.1 The functions of the Licensing Authority under the 1982 Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.

19.2 Many of the decisions and functions will be largely administrative in nature. In the interests of speed, efficiency and cost-effectiveness these will, for the most part, be delegated to officers.

## **20. Fees**

20.1 Fees are set each year. Details are available from the licensing team and on our website <http://www.cambridge.gov.uk/ccm/content/ehws/licensing/fees.en> We charge a separate fee for applying/ varying/ transferring a licence and renewing a licence.

## **21. Effective Date and Review**

21.1 This policy statement will take effect on xxxxx 2011.

21.2 The policy statement will be kept under review and will be subject to further review and consultation before xxxxx 2016.

## **22. Contact details, advice and guidance**

22.1 Applicants can obtain further details about sex establishment licensing application processes, including application forms and fees from:

website: [www.cambridge.gov.uk](http://www.cambridge.gov.uk)

e-mail: [licensing@cambridge.gov.uk](mailto:licensing@cambridge.gov.uk)

telephone: 01223 457879

fax: 01223 457909

post: Licensing, Refuse and Environment Service,  
Cambridge City Council, PO Box 700,  
Cambridge, CB1 0JH

in person: Customer Service Centre, Mandela House, 4, Regent  
Street, Cambridge, CB2 1BY (Monday to Friday 08:00-  
18:00)

Electronic applications can also be made on line via the government's  
businesslink website [www.businesslink.gov](http://www.businesslink.gov)

- 22.2 This policy can be made available in large print on request and similarly  
translations can be made available in a variety of languages. Please contact  
us for further help or assistance.
- 22.3 Informal discussion is encouraged prior to the application process in order to  
resolve any potential problems and avoid unnecessary hearings and appeals.



## Appendix A

Cambridge City Council reserves the power to alter, modify or dispense with these conditions as it sees fit at any time.

# CAMBRIDGE CITY COUNCIL

## *SEX ESTABLISHMENT LICENCE CONDITIONS*



These conditions may be applied to the licensed sex establishment at (the licensed premises) as granted under the 3<sup>rd</sup> Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.

### **1. Hours of Opening**

- 1.1 The licensed premises shall not be open to the public before 9.30 am and shall not be kept open after 6.00 pm from Monday through to Saturday (inclusive) except that the premises may open to the public until 8pm on Fridays.
- 1.2 The licensed premises shall not be open to the public on Sundays, Christmas Day or Good Friday.

### **2. Management and Staffing of the Licensed Premises**

- 2.1 Where the Licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for in the management of the body is to be notified in writing to the Licensing Authority within fourteen days of such change and such written details as the Licensing Authority may require in respect of any new director secretary or manager are to be furnished within fourteen days of a request in writing from the Licensing Authority.
- 2.2 The name of the person responsible for the management of the licensed premises, whether the Licensee or a manager approved by the Licensing Authority shall be prominently displayed within the licensed premises throughout the period during which that person is responsible for its conduct.
- 2.3 The Licensee shall notify the Licensing Authority and the Police of the name and address, and date of birth of any manager or employee involved at the premises within 7 days of them commencing employment. In the case of existing staff at the time the Sex

Establishment licence comes into operation for the first time, this information shall be supplied to the Licensing Authority within 14 days of the licence coming into operation. The Licensing Authority shall reserve the right to object to persons being involved with the premises where they are unsuitable e.g. by way of previous relevant criminal convictions.

- 2.4 At all times during which the premises are open to the public, one or more approved persons shall be present on the premises and shall be responsible for their management. An approved person for the purposes of this condition shall be a person approved in writing in advance by the licensing authority following the submission of details and a satisfactory photograph by the Licensee. A person shall only be approved for the purposes of this condition if the licensing authority considers him or her to be a suitable person to have control of the premises.
- 2.5 No person under the age of 18 shall be admitted to the licensed premises or employed by the licensee to work at the licensed premises.
- 2.6 The Licensee shall ensure that no part of the licensed premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.
- 2.7 Neither the Licensee nor any employee or other person shall seek to obtain custom for the licensed premises by means of personal solicitation, by means of flyers, handouts or any like thing, outside or in the vicinity of the licensed premises.
- 2.8 The copy of the licence and these conditions shall be displayed in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in a conspicuous position at the premises for the customers to see.
- 2.9 No amusement or gaming machines of any kind, whether for prizes or other wise, shall be kept or used upon the licensed premises at any time.

### **3 External Appearance**

- 3.1 Windows and openings to the licensed premises other than entrances shall not be obscured otherwise than with the consent of the Licensing Authority but shall have suspended immediately behind them, plain light coloured screens or blinds of a type and design approved by the Licensing Authority. No advertisements or other notices or items shall be displayed so as to be visible from the exterior of the premises, subject to conditions 3.2 and 3.3.

- 3.2 The Licensing Authority shall approve the design of the front elevation of the shop which shall include reference to the name of the shop, its postal address, opening hours, website address and any security grilles/shutters.

*(As a general rule the name of the premises shall be of an uncontentious nature and light colours used throughout to the Licensing Authority's approval)*

- 3.3 The exterior and entrance to the licensed premises shall be suitably screened so as to prevent any part of the interior being visible from outside the shop. There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order. On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 namely:

**WARNING**

***“Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age”***

**4 Maintenance and Repair**

- 4.1 The Licensee shall maintain the licensed premises in good order, repair and state of cleanliness at all times. This will include the need to maintain the front and rear of the premises in a clean and tidy condition, and to take appropriate measures to keep secure from public access (including unauthorised access) refuse and discarded sex articles/waste stock emanating from the premises pending prompt removal from site.
- 4.2 The licensee shall comply with any fire prevention and safety measures that may be required by the Fire Authority.

**5 General**

- 5.1 The licence shall be revocable in the event of the Licensing Authority being reasonably satisfied that a breach of any of the foregoing conditions has occurred and the licence holder may be liable to prosecution.
- 5.2 IN ADDITION TO THE ABOVE CONDITIONS, IT IS THE DUTY OF THE LICENCE HOLDER TO COMPLY WITH ALL THE REQUIREMENTS OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982.

Cambridge City Council reserves the power to alter, modify or dispense with these conditions as it sees fit at any time.



## **CAMBRIDGE CITY COUNCIL SEXUAL ENTERTAINMENT VENUE LICENCE CONDITIONS**

These conditions may be applied to the licensed sexual entertainment venues as granted under the 3<sup>rd</sup> Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.

Conditions to be attached to Sexual Entertainment Venues, including Lap dancing, pole dancing, table dancing, strip shows, peep shows, live sex shows, topless bars and premises where private entertainment booths are present.

### **The Licensee**

1. The Licensee shall at all times conduct the premises in a decent, sober and orderly manner. In particular the Licensee shall take whatever steps are necessary to ensure that none of the following takes place:
  - (a) Indecent behaviour including sexual intercourse;
  - (b) The offer of any sexual or other indecent service for reward;
  - (c) Unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971;
  - (d) Any acts of violence against persons or property and/or the attempt or threat of such act likely to cause a breach of the peace.

### **The Premises**

2. CCTV shall be installed, maintained and operated to the satisfaction of the Council, to cover all areas where dancing takes place. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days with time and date stamping.
3. Tape recordings shall be kept secure and shall be made available to an Authorised Officer of the Council or a Police Officer, on request.
4. No person shall take any video recordings or photographs of the authorised entertainment. Notices to this effect shall be clearly displayed within the venue.
5. There must be no display outside the premises of photographs or other images, which indicate that entertainment involving nudity or sexual performances takes place on the premises.

6. Entertainment, including dancing, which involves nudity or sexual performances of any kind, must not be visible from outside the premises.
7. Performers shall be provided with separate dressing/changing rooms, which shall be located so as to be separate and apart from the public facilities.
8. No person other than performers and authorised staff shall be permitted in the dressing/changing rooms.
9. Safe and controlled access to the dressing rooms for performers must be maintained at all times. A nominated person should monitor and supervise the performers' dressing/changing rooms.
10. Dressing/changing rooms are to include make-up lighting, mirrors and seating.
11. A curtain or similar such screen shall be provided so as to maintain privacy at all times when the dressing/changing room door is opened.
12. There shall be adequate licensed door supervisors in attendance on the premises when such entertainment is taking place. Of these door supervisors, at least one shall be female. Door supervisors shall be positioned at all entrances to the premises throughout the performance and shall be present in the room in which the performance takes place.
13. All persons working as door supervisors must be approved and licensed by the Security Industry Authority (SIA). The Council will not normally consider the Licensee or the designated Premises Supervisor to be a door supervisor.

### **Performers**

14. Performers shall be aged not less than 18 years.
15. No performer shall be allowed to work if, in the judgement of the Management, they appear to be intoxicated, or under the influence of illegal substances.
16. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
17. Performers shall not use any props or clothing in the Act, which portrays them as a minor.
18. When making their way from the dressing/changing room to the dance area each performer will be robed. They will also be accompanied into the dance area by a licensed door supervisor. On the journey from the dance area to the dressing/changing room they will be robed and accompanied by a licensed door supervisor.
19. There shall be no physical contact between customers and the dancers except for the placing of gratuities into the hands or garter of the dancer at the beginning or

conclusion of a performance. Whilst the dancers are performing there shall be a minimum distance of 80cm between the dancer and the seated customers.

20. Garters worn for the collection of gratuities shall be situated no higher than mid thigh.
21. Performers providing either table or lap dancing performances are to remain standing throughout the performance of the dance.
22. There shall be no table or lap dance performances given to customers seated or standing at a bar.
23. Dancers shall re-dress at the conclusion of the performance and are to remain fully clothed (minimum bikini top and bottom) at all times except when giving a performance.
24. The Licensee, Designated Premises Supervisor or a licensed door supervisor will immediately deal with any report of contact, misconduct or provocation by a customer or a dancer.

### **General**

25. Whilst the agreed activities are taking place, no person under the age of 18 shall be allowed onto that part of the premises. Customers who appear to be under the age of 25 must be asked to provide photographic proof of their age. The licensee must provide and display clear notices to this effect at each entrance to the premises and in a prominent position so that it can be easily read by persons entering the premises.
26. No customer shall be admitted to the premises or allowed to remain in the dance area if, in the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
27. Customers shall remain seated at all times whilst in the dance area, other than when they arrive, depart, visit the toilet or go to the bar.
28. Dance entertainment shall be given only by performers/entertainers who are engaged exclusively for that purpose and have been provided with a copy of the Performance Code of Conduct by the Licensee. Audience participation shall not be permitted.
29. No persons other than dancers shall be in the dance area in a state of undress.
30. Dance entertainment shall only be performed in the area of the club as marked on the plans deposited with the Licensing Authority.
31. Customers shall not proposition performers or behave in a disorderly manner. Offenders must be removed from the premises. Appropriate notices stating these 'house rules' shall be displayed in prominent positions throughout the premises.
32. No telephone number, address or information leading to any further meeting may be passed from customer to performer or vice versa.

33. If performers are invited to have a drink with a customer the performer shall remain fully clothed during this period. Performers shall not be paid commission on the sale of beverages.
34. On leaving the premises performers shall be escorted to their transport by a registered door supervisor.
35. A clear copy of these conditions shall be exhibited at all times in or near the performers' dressing/changing rooms. These conditions shall be protected against theft, vandalism or defacement.
36. The Licensee is to ensure that prior to engagement, all performers provide documents proving that they are over 18 years of age and documents proving that they are legally entitled to work in the UK. Such documents are to be copied and retained on the performer's file.
37. All performer files are to be retained for a period of six months after engagement, and made available to the statutory authorities upon request if required for investigative purposes.
38. Where the Licensee employs performers from an agency, the performers must still provide the relevant documentation as required in the condition above. Details of agencies providing performers are to be made available to the statutory authorities upon request.



CAMBRIDGE CITY COUNCIL

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

Licensing Sub-Committee: Hearings Procedure

**Preliminary Matters**

1. **The Chair** will commence the hearing by introducing him/herself, the other two members of the Sub-Committee and the officers present.
2. **The Chair** will ask the applicant(s), their representatives (if applicable), and all those present to introduce themselves and identify their interest in the proceedings.

**Failure of a party to attend the hearing**

3. If a party has informed the licensing authority that he/she does not intend to attend or be represented at a hearing, the hearing may proceed in his/her absence.
4. If a party who has not so indicated fails to attend or be represented at a hearing, the Sub-Committee may, as appropriate, –
  - (a) adjourn the hearing to a specified date, or
  - (b) hold the hearing in the party's absence.

Each case will be decided on its individual merits.

5. Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee will consider at the hearing the application, or objection made by that party.
6. **The Chair** will explain the procedure to be followed at the hearing.
7. **The Committee Manager or Clerk to the Sub-Committee** will indicate whether any party has requested permission for any other person(s) (other than his/her representative) to appear at the hearing to assist the Sub-Committee in relation to the application or objection of the party making the request. The Sub-Committee will decide whether to grant permission to allow any other person(s) to appear at the hearing on behalf of the party; such permission will not be unreasonably withheld.
8. **The Committee Manager or Clerk to the Sub-Committee** will ask whether any party is seeking to introduce any document(s) or other information not previously disclosed to all the other parties to the



hearing and the licensing authority. If all the other parties consent, the previously undisclosed document(s) or other information can be produced by a party in support of their application or objection (as applicable).

9. The hearing will take the form of a discussion led by **the Chair** of the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee considers that cross-examination is required to consider the application or objection as the case may require.
10. The Sub-Committee will consider any requests to permit cross-examination on a case-by-case basis. When permission is given to one party, it will also normally be extended to all other parties.
11. The Sub-Committee will decide the equal maximum period of time that each party will have to present their case.

### **The Hearing**

12. The Head of Refuse and Environment will present the report to the Sub-Committee.
13. Members may ask any relevant questions of the Head of Refuse and Environment.
14. The applicant will present their case next.
15. The applicant shall be entitled to:
  - (a) give further information in support of their application;
  - (b) question any other party (if permission has been given by the Sub-Committee);
  - (c) address the Sub-Committee.
16. If the Police are a party to the hearing, then they will present their observations. The Police have the rights listed in paragraph 15 (a) – (c) above.
17. If any other persons making objections are a party to the hearing, they will present their case in turn and have the rights listed in paragraph 15 (a) – (c) above.
  - only those persons whose written objections have been received within the 28 day period, and included in the report, can speak;
  - the persons making objections are confined to putting forward only those points, which they raised, in their written submissions, which are relevant.

18. Members of the Sub-Committee may ask questions of each party or any other person permitted to appear at the hearing.
19. **The Chair** will invite the applicant and any party making observations or objections, to briefly summarise their points if they wish.
20. **The Chair** will ask the applicant and any party making observations or objections, if they are satisfied that they have said all they wish to.

#### **Site Visits:**

21. If the Sub-Committee consider that it is necessary to conduct a site visit before making a decision, they may adjourn the hearing to facilitate this. Members will be accompanied on the site visit by at least one of the Council's officers, and the applicant and/or the applicant's representative and may request that the Council's Legal Adviser attends the site visit.

#### **The Decision**

22. In considering any representations made by a party, the Sub-Committee may take into account documentary or other information produced by that party in support of their application, observations or objections (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.
23. In reaching its decision, the Sub-Committee will disregard any information which is not relevant.
24. The Sub-Committee may consider its decision in private session. Where the Sub-Committee has resolved to move into private session **the Chair** will announce this.
25. **The Chair** will notify those present of the decision taken by the Sub-Committee and the reasons for the decision. The decision will be confirmed in writing, together with details of any right of appeal.