

Date 17 February 2011
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To:
Members of the Licensing & Enforcement Committee
(Councillors David Atkins, Ray Bloxham, Roger Boote, Chris Gibbings,
Pat Graham, Steve Hall, May Hardy, John Humphreys, Jim Knight,
Ann Liverton, Frances Newth, Barry Nicholson, Ken Potter, Pauline Stott,
Mark Williamson)

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**Meeting of the Licensing & Enforcement Committee
Tuesday 1 March 2011 at 9.30am in the Council Chamber, Knowle, Sidmouth**

Members of the public are welcome to attend this meeting when items listed under Part A of the agenda are being considered. For the benefit of Councillors and members of the public a hearing loop system will be in use in the Council Chamber.

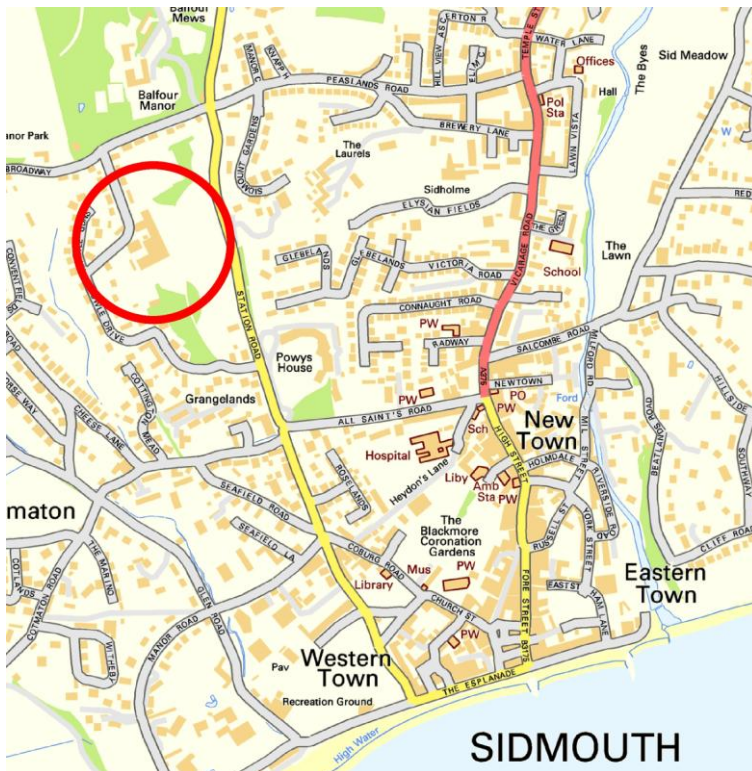
A G E N D A

	Page/s
1 To confirm the minutes of the meeting held on 23 November 2010.	3 - 5
2 To receive any apologies for absence.	
3 To receive any declarations of interests relating to items on the agenda.	
4 To consider any items which, in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).	
5 To agree any items to be dealt with after the public (including the press) have been excluded. (There are no items which the Officers recommend should be dealt with in this way).	
6 Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing.	6 - 17
7. Policing and Crime Act 2009 – Draft Sexual Entertainment Venue and Sex Establishment Licensing Policy	18 - 39
8. How the proposals in the Police Reform and Social Responsibility Bill are likely to change the Licensing Act 2003 and the possible effects on the District. To consider a presentation by John Tippin, Licensing Manager.	Verbal Report

Members remember!

- ❑ You must declare the nature of any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- ❑ Where you have a personal interest because the business relates to or is likely to affect a body of which you are a member or manager as an EDDC nominee or appointee, then you need only disclose that interest when (and if) you speak on the item. The same rule applies if you have a personal interest in relation to a body exercising functions of a public nature.
- ❑ Make sure you say the reason for your interest as this has to be included in the minutes.
- ❑ If your interest is prejudicial you must leave the room unless
 - a) you have obtained a dispensation from the Council's Standards Committee or
 - b) where Para 12(2) of the member Code of Conduct applies. [Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain for these purposes, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.]
- ❑ The Code states that any member of the Executive Board or other decision-making committee or joint committee or sub-committee attending Overview and Scrutiny committees has a prejudicial interest in any business where that member was a member of the committee at the relevant time **and** present when the decision was made or other action was taken (whether or not implemented). Members with prejudicial interests should declare them and are allowed to remain in the meeting for the limited purposes set out in the Code para 12(2) – see previous paragraph. You also need to declare when you are subject to the party whip before the matter is discussed.

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From Honiton – 52B
From Seaton – 52A
From Ottery St Mary – 379, 387
Please check your local timetable for times.

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Information for Visitors:

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For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Committee

Held at Knowle, Sidmouth on Tuesday, 23 November 2010

Present:

Councillors:

Chris Gibbings (Chairman)
Steve Hall (Vice Chairman)

David Atkins
Ray Bloxham
Pat Graham
John Humphreys

Frances Newth
Ken Potter
Pauline Stott
Mark Williamson

Officers:

John Tippin, Licensing Manager
Giles Salter, Assistant Solicitor
Chris Lane, Democratic Services
Officer
Neil McDonald – Licensing Officer

Apologies:

Councillors:
May Hardy
Ann Liverton

The meeting started at 9.30 am and ended at 11.00 am.

*12 **Minutes**

The minutes of the meeting of the Licensing & Enforcement Committee held on 7 September 2010, were confirmed and signed as a true record.

*13 **Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing**

Consideration was given to the report of the Licensing Manager, which provided Members with an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters. Members noted that since 1 October 2010, two mandatory conditions had now been applied to premises licences. The first was a requirement for an age verification policy, and the second, a requirement to give customers the opportunity to have smaller measures of alcoholic drinks.

It was noted that since the last report East Devon had eleven less premises licences and one less club certificate. A debrief had been held this month for the Sound City Event held at Escot, which had mainly discussed the traffic problems experienced at this event,. A debrief for both the Sidmouth Folk Festival and Caribbean Night would be held on Friday 26 November 2010. A constructive debrief had also been held for Beautiful Days. The premises in Dove Lane, Sidmouth which had been used as an adult gaming centre and causing concern was no longer being used for this purpose. Members noted that the Licensing Team had continued the education based enforcement and monitoring approach to the Hackney Carriage and Private Hire Drivers and vehicles; a similar approach to that used in respect of the Licensing Act.

It was reported that the new Taxi Ranks for both Exmouth and Honiton had now been completed. There was concern expressed that there were too many taxi drivers in Exmouth

*13 **Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing (Cont)**

and they were taking away car parking spaces from the public. The provision of two extra taxi rank spaces for the late night taxi trade in Exmouth would be investigated. A useful liaison meeting had been held with the taxi trade, Chaired by Councillor Gibbings on 27 October 2010. This was one of the twice yearly meetings held between, members, taxi proprietors and officers.

On 6 November 2010 two EDDC Licensing Officers had been involved in a multiagency taxi enforcement operation. In all thirty taxis had been checked at Camperdown Terrace Depot. All vehicles and drivers were found to be licensed and a number of minor faults had been found with vehicles. These had been rectified and drivers warned. The Licensing Manager confirmed that all taxi drivers in East Devon had enhanced CRB checks before being granted a licence. It was noted that six expressions of interest from traders for permits for the Folk Festival 2011 had already been received.

RESOLVED that the report be noted.

14 **Licensing Act 2003 – Licensing Policy Adoption**

Consideration was given to the report of the Licensing Manager which updated the Committee on the tri-annual review of the Council's Licensing Act 2003 policy and the results of the consultation process and invited the Committee to recommend that the Council adopt the amended Licensing Policy as required by the Licensing Act 2003.

Members noted that the Licensing Authority was aware of the frustration felt by parish and town councils who wished to comment as "Interested Parties" in their own right. However, on this issue the Licensing Act 2003 was prescriptive on those bodies, businesses and individuals able to make representations on applications. Neither town nor parish councils were named in the legislation as bodies that could make representations either as a "Responsible Authority" or "Interested Party". Other avenues had been explored to permit parish and town councils to act as "Interested Parties" in their own right. However the Council's legal advice was that this was not permitted under the current legislation.

Every District Councillor, who was a Councillor for the Licensing Authority, was able to make representations to a licensing application and every EDDC Councillor would now be notified of each licensing application and able to make representations. The Chairman confirmed that he had made it known to a recent visiting Government Inspector that he felt that town and parish councils should be "interested parties" and be able to make objections to licensing applications in their area.

RESOLVED that the results of the public consultation undertaken on the Council's draft Licensing policy relating to the Licensing Act 2003 be noted.

- RECOMMENDED**
1. that the Area Child Protection Committee and Local Safeguarding Children Board (Devon County Council) be nominated as the body competent to advise the authority about the protection of children from harm issues as required by the Licensing Act 2003, Section 13(4)(f);
 2. that the East Devon Licensing Act 2003 policy as attached as Appendix B to the report be adopted by the Council for the period 7 January 2011 to 6 January 2014.

*15 **Hackney Carriage Fare – objections to the Approved Fare Table**

Members were asked to consider the objections made against the Hackney Carriage Fare Table approved by the Committee at its meeting on 7 September 2010 (Minute No 11 refers). The Committee was requested to decide whether to modify the tariff or retain it in the existing form. It was noted that three objections to the proposed increases to Tariffs had come from Exmouth taxi drivers.

RESOLVED

1. that following consideration of the objections to the increases to the Hackney Carriage Tariff contained in Appendix D to the report, Tariff 2 and 3 remain as adopted at the meeting on 7 September 2010 and that the Tariff 1 fare table in Appendix E to the report be adopted and exchanged for the existing Tariff 1 table in Appendix D;
2. that the modified table of fares come into effect from 8 December 2010.

16 **Police & Crime Act 2009 – Sexual Entertainment Venue Licensing**

Members noted that the Policing and Crime Act 2009 had classified lap and pole dancing clubs and similar venues as Sexual Encounter Venues and gave local authorities in England and Wales the option to adopt the legislation to regulate them as Sex Establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. The report set out an explanation of the legislation and invited the Committee to recommend that Council resolve to adopt Schedule 3 of the Local Government (Miscellaneous) Provisions Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, to allow the licensing of Sexual Entertainment Venues.

RECOMMENDED

1. that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, to allow the licensing of Sexual Entertainment Venues with the adoption coming into effect on 1 February 2011;
2. that authority to regulate the functions provided within Schedule 3 of the Local Government ((Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, be delegated to the Licensing and Enforcement Committee and any Sub Committee of that Committee in order to regulate sex establishments in the District;
3. that the proposed Licensing Fees as set out in Appendix A to the report, be agreed, but reviewed within 12 months in the light of experienced gained.

Chairman Date

Agenda Item

Licensing & Enforcement Committee

1 March 2011

JT/NM/DJ/JL

Committee Update -

Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing

Summary

The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi legislation together with other general licensing matters.

Recommendation

That the report be noted

a) Reasons for Recommendation

To keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service.

b) Alternative Options

Not Applicable

c) Risk Considerations

Failure to provide an efficient licensing service may result in complaints or legal challenges being made against the Licensing Authority.

d) Policy and Budgetary Considerations

None

e) Date for Review of Decision

Not Applicable

1 Licensing Act 2003

1.1 Licences Issued and Notices Given

1.1.1 The numbers of licences issued and notices given since the last update report to the Committee are set out in **Appendix A**.

1.2 Premises Risk Ratings

- 1.2.1 The visits to licensed premises identified on the risk rating system is continuing on an ad hoc basis but the number of visits has been limited due to the reduction in staff following the departure of the Senior Licensing Officer from the team and the additional work required to process the applications and licences transferred fifteen months ago from the Environmental Health Department to the Licensing Service.

1.3 Enforcement

- 1.3.1 A co-ordinated multi agency approach to complaints received has secured swift resolutions without the need for formal enforcement action.

1.4 Hearings

- 1.4.1 The numbers of hearings held since the last update report to Committee are set out in **Appendix A**.

1.5 Applications Received and Notices Given

- 1.5.1 The numbers of applications received and notices given are set out in **Appendix A**.
- 1.5.2 The reduction in the number of premises licences in East Devon has continued during this quarter but five new premises licence applications and a new club certificate are currently being processed by the Licensing Team.
- 1.5.3 Of interest is that one of the applications for a premises licence relates to a new hotel to be built at Exeter Airport that will be known as the Hampton by Hilton Hotel.
- 1.5.4 Four 'time limited' premises licences have also been issued for the Sidmouth Folk Week which is again being held in Sidmouth during the end of July and the first week of August 2011.
- 1.5.5 On 20 January 2011 the police served an application for the review of a premises licence relating to Seasons situated at 9 Silver Street, Ottery St Mary. The application is currently being advertised for the required 28 day notice period and is expected to be heard by the Licensing Sub-Committee on 15 March 2011.

1.6 Police Reform and Social Responsibility Bill

- 1.6.1 Police Reform and Social Responsibility Bill had its second reading in the Commons on the 13 December 2010 and is now well through its committee stage. A short presentation on the proposals will be provided to members by the Licensing Manager on the 1 March. It is anticipated the Committee stage will have been completed by that date.
- 1.6.2 The bill includes various provisions unconnected with licensing however it also proposes amending the Licensing Act 2003 to assist with controlling noise nuisance and giving communities greater say in licensing decisions.

2 Gambling Act 2005

2.1 Licences Issued and Notices Given

- 2.1.1 The numbers of licences issued and notices given since the last update report to Committee are set out in **Appendix B**.
- 2.1.2 The process for issuing club machine permits to replace expired Part III registration certificates issued by the magistrates' courts continues with club machine permits being issued under the Gambling Act 2005. The process should be completed by April 2011 when the last certificate issued by the magistrates expires.

2.2 Premises Inspections and Risk Ratings

- 2.2.1 A scheme of inspection, report and risk assessment has now been completed in consultation with the Gambling Commission and Partner Agencies. A final modification is needed to link the data into LalPac – the Council's licensing software.

2.3 Enforcement

- 2.3.1 Members of the licensing team went to two fairground amusement arcades on 5 November in Ottery St Mary as part of the routine visit for the Tar Barrels event. Both arcades had machines that were advertised for sale and both arcades had Category C machines which are not authorised for use on fairgrounds. In both cases the fairground owners were questioned and immediately agreed to make the unauthorised machines unavailable for use. Advice was given regarding the unauthorised sale of the machines.
- 2.3.2 The Gambling Commission, who is responsible for licensing those businesses that are permitted to sell gaming machines, and the Devon and Cornwall Constabulary have been informed of the progress of the investigations made.

2.4 Hearings

- 2.4.1 The numbers of hearings held since the last update report to Committee are set out in **Appendix B**.

2.5 Applications & Notifications received

- 2.5.1 The numbers of applications and notifications received since the last update report to Committee are set out in **Appendix B**.

3 Taxis

3.1 Licences Issued

- 3.1.1 The numbers of Licences issued since the last update report to Committee are set out in **Appendix C**.

3.2 Enforcement

- 3.2.1 The Licensing Team has continued the education based enforcement and monitoring approach to the Hackney Carriage and Private Hire drivers and vehicles as we have used with the Licensing Act. Close liaison is maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality are maintained.
- 3.2.2 Officers continue to plan and carry out enforcement operations within the district with the police and other partner agencies
- 3.2.3 On the night of Saturday 6 November 2010 a multi agency check was carried out, using the council premises at Camperdown Terrace, Exmouth. Officers from East Devon District Council's Licensing Team and Fraud Investigation, along with officers from the Devon and Cornwall Constabulary and Department for Work and Pensions carried out checks on taxis in the East Devon area. A total of 32 checks were made on licensed taxis with one prohibition being made by the police in relation to a tyre offence. Seven other vehicles had minor infringements of the laws including:
- ❑ Two vehicles had a defective brake light
 - ❑ Three failed to display no smoking signs
 - ❑ One had a defective headlight which was repaired on the spot
 - ❑ One driver had no hackney carriage drivers badge displayed

All of the listed offences were dealt with by way of advice, and the issuing of no smoking signs to the drivers for display.

3.3 Hearings

- 3.3.1 Since the last update report to Committee there have been two hearings in relation to hackney carriage and private hire issues. These hearings were.
- ❑ To decide whether a vehicle that was over 4 years old at the time of application was fit to be licensed as a private hire vehicle. It was agreed that the vehicle was fit to be licensed.
 - ❑ To decide if a hackney carriage driver, whose licence had been suspended by a previous Sub Committee hearing pending an investigation by the Devon and Cornwall Constabulary should have his licence re instated. The licence was re instated by the Sub Committee.

3.4 Applications received

- 3.4.1 The number of applications received since the last update report to Committee is set out in **Appendix C**.

3.5 Taxi Rank Update

- 3.5.1 **Exmouth** –The Exmouth regeneration scheme is nearing completion, and all the ranks that were approved by the Committee have been put into place except for two spaces in Victoria Road. With the agreement of Devon County Highways this Committee approved a rank in Victoria Road for four spaces. Regrettably the rank that was put in place can only accommodate two spaces. The Licensing Service has been assured by Devon County Council that this will be rectified. It is hoped that there will be an early

resolution to this problem. The regeneration project is a new venture for all concerned, and will take a while to settle down. Taxi operators and drivers have been asked to give the ranks a chance to see how they work. They have been advised the situation can be reviewed at a later date if there are problems to be smoothed out. There has been a complaint in relation to the angled end of the taxi rank in the Strand by drivers, saying it reduces the rank space. This has been passed to Devon County Council for their comments but it would appear from a letter received from the County dated 30 November 2010 that the rank has been finished and they will not be carrying out any further work on it to address that particular issue.

- 3.5.2 **Honiton** – Devon County Council, have finalised the new rank in Honiton, increasing the numbers of spaces from two to seven. This is a big improvement on the previous situation and comments from local taxi drivers have been very favourable. A solution to the rank issues in the town has taken over twelve years to be finalised.

3.6 Hackney Carriage Fares

- 3.6.1 After consultation new hackney carriage fare increases were agreed by this Committee at its last meeting. There were no representations made against the proposed increases following the publication of the required newspaper notice and therefore the amended fare table was taken into use on 8 December 2010. Again the Licensing Service used the Camperdown Terrace depot in Exmouth in order that the taxi drivers had the opportunity to attend a local venue to have their meters calibrated to the new tariff. Two meter installation businesses took the opportunity to attend and carryout the alterations. More than 100 licensed vehicles availed themselves of this facility and attended. Licensing Officers took the opportunity to also carryout inspections of all vehicles that attended the venue.

4. General Licensing including Animal Licensing and Skin Piercing

Animal, Skin Piercing and Scrap Metal Dealers Licensing Statistics

- 4.1 The statistics relating to animal, skin piercing and scrap metal dealer licensing since the last update report to Committee are set out in **Appendix D**. These statistics include, where relevant, the numbers of licences issued, the number of hearings held and the number of applications received.
- 4.2 Since December the service has been very busy processing many of these licence applications. Because of the way the legislation is framed all the existing Pet Shop, Cattery, Kennels and Home Boarding licences come up for renewal on the 31 December each year. Also until this year all Dangerous Wild Animal licences expired on the 31 January however this has now changed so that any new DWA licence will now last for two years and expire on the 2nd anniversary of it being granted.
- 4.3 Members may be interested that we have two Zoo licences in the District and in December an application was received from Crealy for a third licence. The Crealy application is currently being processed. As will be appreciated the issue of a zoo licence is not a quick matter as various consultations and checks are required including an inspection by a Defra nominated

inspector. We are also expecting an application for another zoo licence for premises in the east of the District.

5. Street Trading

5.1 Street Trading Statistics

- 5.1.1 The statistics relating to street trading since the last update report to Committee are set out in **Appendix E**. These statistics include, where relevant, the numbers of permits issued, the number of hearings held and the number of applications received.
- 5.1.2 The past quarter is traditionally a quiet period for street trading licensing however it now starts to get busy especially as the traders plan for the summer.

5.2 Street Trading Consents - Fees

- 5.2.1 On the 9 February 2011 the Executive Board considered a report from the Licensing Manager seeking an increase of the fees charged for Street Trading Consents. The proposal was recommended for approval and will be considered by Council at its next meeting on the 23 February 2011. The proposal is reproduced below for information.

Number of days	Current Fee (Per Day)	Current Charity Fee (Per Day)	Proposed Fee (Per Day)	Proposed Charitable Fee (Per Day)
4 & more days or part days	£15	£15 (per market)	£20 (33.33% increase)	£20 (per market) (33.33% increase)
1 to 3 days or part days	£15	£15 (per market)	£25 (66.66% increase)	£20 (per market) (33.33% increase)

6. Consultations and Partnership Working

Meeting between Members, Taxi Proprietors and Officers

- 6.1 The next liaison meeting with the taxi trade had been arranged for the 22 April 2011 (during the Easter school holidays) however this meeting has had to be cancelled as the Council Chamber is required for election preparations. The meeting has now been rearranged to come in the summer half term on Thursday 2 June at 1400 hrs. The Committee's Chairman and Vice Chairman normally attend these meetings.

6.2 Licensing Association Meetings (relating to Licensing Act 2003)

- 6.2.1 Officers from the Licensing Team continue to attend licensing association meetings around the district on a semi regular basis to provide advice and consult.

7. Member Training

- 7.1 A training session for Licensing and Enforcement Committee members has been scheduled for Thursday 2 June in the Council Chamber at Sidmouth. This is planned as a morning session particularly to cover the committee's role especially in relation to the Licensing Act. Although the main thrust of the training will be towards new committee members the intention is to tailor it also as a refresh. It is planned to arrange further training during the summer in relation to other aspects of the committee's licensing role. It would be useful if members could indicate their preferred time of day for future sessions. Previously training has been done in full days. On this occasion a half day has been arranged. Alternatively the occasional evening session can be arranged.

Legal Implications

There are no legal implications set out within the report that require comment.

Financial Implications

No financial implications.

John Tippin Ext. 2787
Licensing Manager

Licensing and Enforcement Committee
1 March 2011

Agenda Item

Licensing & Enforcement Committee

1 March 2011

JT



Policing and Crime Act 2009 – Draft Sex Establishment Licensing Policy

Summary

The report summarises a request for approval of a draft Sex Establishment Licensing Policy and for approval for public consultation on it.

Recommendation

That the Committee note the report and approve the draft Sex Establishment Licensing Policy for public consultation.

a) Reasons for Recommendation

The legislation does not require the Council to have a policy relating to the licensing of Sex Establishments however it is regarded as good practice to have a policy to indicate the Authority's approach to licensing premises of this type within its area.

b) Alternative Options

To amend the proposed policy within the legal limitations which apply or not to have a policy.

c) Risk Considerations

N/A

d) Policy and Budgetary Considerations

Schedule 3 to the 1982 Act states that an application for the grant, renewal 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. Council has approved a fee structure intended to ensure full cost recovery.

e) Date for Review of Decision

N/A

1 Background

1.1 On the 23 November 2010 this committee considered a report by the Licensing Manager recommending the adoption of Schedule 3 of the Local Government

(Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009. The effect of adopting this Schedule was to require that all sex establishments including sex shops, sex cinemas and sex entertainment venues within the District would require licensing by the District Council. The District Council has since 1983 required that all sex shops and sex cinemas should be licensed and the effect of the recommendation was to include sex entertainment venues also.

- 1.2 Following consideration of that report this Committee recommended to Council that Schedule 3 should be adopted as amended by Section 27 of the Policing and Crime Act 2009.
- 1.3 On 9 December 2010 Council adopted the recommendation which came into effect on the 1 February 2011.
- 1.4 There is now a transitional period of twelve months where existing operators (of which there is one in the District) can apply for licences under the new legislation. There is no automatic “grandfather rights” as there were under the Licensing Act 2003 and the Gambling Act 2005. If an existing operator is granted a licence it will not take effect until the end of the twelve-month transitional period (3rd appointed day). Until that date the business will be allowed to continue to operate under its existing premises licence or club certificate.
- 1.5 New applicants can also within the first twelve months apply to the Licensing Authority for a Sex Establishment licence. However no application, for new or existing operators, can be determined before a six-month period has elapsed from the date the adoption took effect (1st appointed day). For easy reference the day at the end of the first six-month period is referred to as the ‘2nd appointed day’. The requirement for no applications to be considered before the expiry of the first six months of the transition period is to ensure that applicants are given sufficient time to submit their applications and all applications received on or before the 2nd appointed date will then be considered on their individual merit and not on first come first serve basis. In East Devon’s case the 2nd appointed date is the 1 August 2011.
- 1.6 The legislation does not require the Council to have a policy relating to the licensing of Sex Establishments however it is regarded as good practice to have a policy to indicate the Authority’s approach to licensing premises of this type within its area.
- 1.7 The draft policy appearing as **Appendix 1** to this report sets out the policies the Council will generally apply when making decisions on applications. The document explains the application process and provides information on what is expected of applicants. In addition it explains the processes by which representations may be made about an application.
- 1.8 Provided the committee approve the draft policy for consultation it is intended that the consultation will commence with immediate effect on the 1 March 2011. Complying with the HM Government Code of Practice on Consultation the consultation will end on the 25 May 2011. It is then intended that the results will be reported to this Committee at its meeting on Tuesday 14 June 2011 with the final draft going to Council for approval on Wednesday 27 July 2011.

Legal Implications

The legal framework is clearly set out within the report and requires no further comment.

Financial Implications

No financial implications.

Appendices

Appendix 1 - Copy of the draft Sex Establishment Licensing Policy

Background Papers

- Report to Committee dated 23 November 2010 recommending adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009
- Policing and Crime Act 2009
- Local Government (Miscellaneous Provisions) Act 1982
- Sexual Entertainment Venues – Home Office Guidance for England and Wales (March 2010)

John Tippin Ext 2787
Licensing Manager

Licensing & Enforcement Committee
1 March 2011



DRAFT Sex Establishment Licensing Policy Document February 2011
Published by

Licensing Service
Legal, Licensing & Democratic Service
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<http://www.eastdevon.gov.uk/licensing>



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Foreword

This Licensing Policy sets out East Devon District Council's requirements for premises to be licensed as sex establishments within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009). This legislation shall be referred to thereafter as 'the Act'.

Section 2 of the Act provides that local authorities may resolve that Schedule 3 will apply to their area, which has the effect of requiring premises operating as sex establishments in that authority's area to be licensed. The adoption of Schedule 3 also allows the Council to set terms and conditions and fees for the grant, renewal, variation and transfer of such licences and the number of licences that may be issued in the area, which may be nil.

The Council does not take a moral stand in adopting this policy. It recognises that parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a Licensing Authority to administer this licensing regime in accordance with the law.

1.0 Introduction

- 1.1 East Devon District Council with effect from the 1 January 1983 resolved to apply Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, providing that anyone wishing to operate a 'sex establishment' within the district must first obtain a licence from the council. At that time the term 'establishment' related to shops and cinemas used for that purpose.
- 1.2 Following the reclassification of lap dancing style premises as sexual entertainment venues by Section 27 of the Policing and Crime Act 2009 the Council resolved that with effect from the 1 February 2011 the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 would apply to the District. This means that all sex establishment venues including lap dancing style premises within the East Devon District are required to be licensed by this Council.
- 1.2 This Statement of Licensing Policy for Sex Establishments sets out the council's requirements for premises to be licensed as 'sex establishments' within the meaning of the Act.
- 1.3 The information contained in the appendices attached and referred to within this policy should be read as an inclusive part of this policy document.
- 1.4 Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act or schedules issued under the Act.

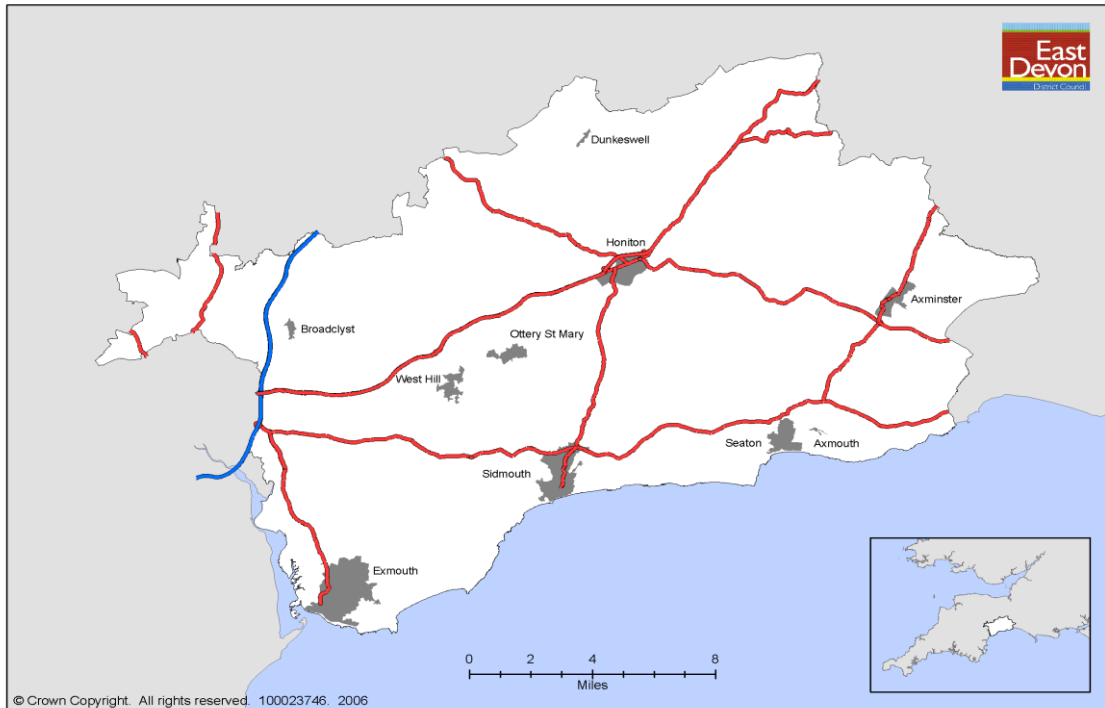
Definition of Sex Establishment

- 1.5 A 'sex establishment' is defined under the Act as a 'sex shop', a 'sex cinema' or a 'sexual entertainment venue'. Full definitions of those and other relevant terms can be found in **Appendix A**. This appendix also provides detail on when a sexual entertainment venue is exempt from the provisions of the Act.
- 1.6 Sex establishments include any premises, vehicle, vessel or stall used as a sex establishment but does not apply to the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

The Geographical Area

- 1.7 East Devon is one of eight Devon districts and, in population terms, it is the largest in the County.
- 1.8 The District has a dispersed and mainly rural population. The rural nature of the area is emphasised by the low population density of 1.67 per hectare (the England and Wales average is 3.4). The District is fully parished with 68 Town and Parish Councils. Areas of Outstanding Natural Beauty and the World Heritage Coast cover a high proportion of the District.
- 1.9 The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population 35,762), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets.

- 1.10 The District's population currently stands at 135,643: 63,900 males and 68,900 females. The black and ethnic minority population of East Devon is considerably small – only 2.5% (3400 people described their ethnic group as non-white in the 2006 ethnicity census, with Mixed race being the single largest grouping at 1,100). East Devon also has a high percent of elderly residents with 34% of the population over 60 years of age.



- 1.11 The East Devon population is set to grow over the next few years, projected to reach 145,800 in 2016 although this is less than had been projected before the recession. Currently those in 60 to 64 year age band form the largest age group in the district.
- 1.12 The entertainment industry within the District is a major contributor to the economy of East Devon. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer

Policy Development

- 1.13 This Licensing Policy sets out the policies the Council will generally apply when making decisions on applications. This document explains the application process and provides information on what is expected of applicants. In addition, the processes by which representations may be made about an application are explained.
- 1.14 Whilst this policy stands alone, applicants are advised to also have regard to the Council's Licensing Act 2003 Policy which may impact on applicants, particularly those wishing to undertake other licensable activities such as the retail sale of alcohol.
- 1.15 In addition to considering the requirements of the Act, consideration has been given to the following requirements in developing this policy:

- (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the district;
- (b) The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- (c) The Provision of Services Regulations 2009 to ensure requirements are:
 - (i) non-discriminatory;
 - (ii) justified by an overriding reason relating to the public interest;
 - (iii) proportionate to that public interest objective;
 - (iv) clear and unambiguous;
 - (v) objective;
 - (vi) made public in advance; and
 - (vii) transparent and accessible.

1.16 At the time of adopting this policy, the Council has no licensed sex establishments but there is one premises that falls within the new definition of a sexual entertainment venue. Under the legislation this business has twelve months from the 1 February 2011 to become licensed or to stop trading in its current form.

Consultation

1.17 The public consultation in relating to the draft policy took place between the 1 March 2011 and the 25 May 2011, in line with the HM Government Code of Practice on Consultation (published July 2008), which is available at www.berr.gov.uk/files/file47158.pdf. Consultation was conducted with local residents, the statutory responsible authorities under the Licensing Act 2003, and holders of premises licences under the Licensing Act 2003 in the District.

Amendments to Policy

1.18 Any significant amendment to this policy will only be implemented after further consultation with those who are likely to be affected by the amendments including existing licence holders and statutory responsible authorities under the Licensing Act 2003.

1.19 For the purposes of clarity 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.

1.20 Any minor amendment to this Policy may be authorised by the Head of Legal, Licensing and Democratic Services in consultation with the Chairman of the Licensing and Enforcement Committee.

1.21 The Authority will review the Policy when it identifies a need or as required by legislation changes or following government guidance.

Exchange of Information

1.22 The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other

partners to fulfil its statutory objective of reducing crime in the area.

- 1.23 Details of applications and objections which are referred to a Licensing Sub-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.
- 1.24 The names and addresses of objectors will not be disclosed to applicants or published in public reports in accordance with the Act. Such details will be made available to Councillors on the Licensing Sub-Committee.

Further Information

- 1.25 Should you have comments regarding this policy please write to the address on the front of this document or email licensing@eastdevon.gov.uk.
- 1.26 Relevant legislation can be viewed at www.opsi.gov.uk.

2.0 Primary Considerations

2.1 East Devon District Council being the Licensing Authority for the purposes of the Act recognises that it can set a quantity limit in relation to the number of sex establishments in an area but has not chosen to do so based on the specific geographical characteristics and nature of this District.

2.2 Whilst the Council has not imposed a limit on the number of premises that may be licensed in any area, and whilst treating each application upon its own merits, the Council will not licence premises in proximity to:

- (a) a predominantly residential area;
- (b) premises, areas or access routes to such premises or areas which are designed for or attract children or families, such as school, play areas, parks, children's centres, youth clubs, nurseries or leisure facilities, or any other similar establishment;
- (c) a place of public religious worship;
- (d) historic buildings, cultural attractions and tourist attractions;
- (e) educational establishments;
- (f) community facilities and public buildings;
- (g) an area with a history of social difficulties;
- (h) a gateway to an identifiable locality.

3.0 The Application and Determination Process

Making an Application

- 3.1 Whilst not required, the council would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.
- 3.2 The Authority expects that applicants will have consulted with local residents, businesses and/or community groups in the vicinity of the premises so far as is reasonable practicable.
- 3.3 Applicants are advised to consult the Licensing Authority's pool of sex establishment conditions in order to ascertain the standard of the premises required, and the types of controls typically applied.
- 3.4 The Authority recognises that a partnership approach is more likely to ensure the licensing objectives are achieved and maintained. Pre-application discussions between the applicant, the Council's Licensing Service and other relevant agencies will be encouraged so that the licensing process can be as trouble free as possible.
- 3.5 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must also state where it is to be used as a sex establishment.
- 3.6 Applications should be made in line with **Appendix B**, which explains the Council's application process including that required by legislation. Examples of these requirements include the requirement to notify the Police of an application and the display and publication of public notices giving notice of the application. Application forms can be downloaded from the Council's web site, completed online or are available upon request to the Council's Licensing Service.
- 3.7 An application form and relevant documentation for the new licence, renewal, variation or transfer must be completed and returned with the appropriate fee as set down by the Council. The current fee levels can be obtained by reference to the Council's Licensing Service.

Duration of Licences

- 3.8 Licences will generally be issued on an annual basis but can be issued for a shorter term if deemed appropriate.

Commenting on Licence Applications

- 3.9 Unlike some other licensing regimes (for example those for alcohol, entertainment, or gambling), a wide range of people can raise objections about sex establishment licences. The police are a statutory consultee for all applications. Objectors should have something to say which is relevant to the statutory grounds for refusal that are set out in the Act.
- 3.10 Representations must state the grounds on which the objection/positive representation is made. Objections must be made in writing and should ideally:

- be made in black ink;
- indicate the name and address of the person or organisation making the representation;
- indicate the premises to which the objection relates;
- indicate the proximity of the premises to the person making the representation.

3.11 Representations may only be made within the period of 28 days following the date on which the application was given to the Licensing Authority.

3.12 The Licensing Authority will not normally consider any objection or positive representation that does not contain the name and address of the person making it.

3.13 Representations received that are frivolous or vexatious or which relate solely to moral grounds are likely to be given lesser weight.

3.14 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason, for example - malice. A frivolous objection is generally taken to be one that is lacking in seriousness.

3.15 Where representations are made the Council will provide copies to the applicant. The Council will not divulge the identity of the objector(s) to the applicant without the objector's permission to do so.

Determination of Applications

3.16 When considering applications, the Licensing Authority will have regard to:

- The Local Government (Miscellaneous Provisions) Act 1982 (as amended);
- Any supporting regulations;
- This Licensing Policy
- Any supporting Government Guidance

3.17 This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.

3.18 When determining applications, the Licensing Authority will take account of any comments made by the Chief Officer of Police and any representations made.

3.19 We take the following approach to deciding applications:

- Each application will be decided upon its merits. This authority will not apply a rigid rule to its decision making;
- Objectors can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Elected councillors may represent interested parties providing they do not also sit on the Licensing Sub-Committee determining the application in question;
- We will give clear reasons for our decisions.

3.20 Where objections are made and not withdrawn, a hearing before a Licensing Sub Committee will normally be held

within 20 working days of the end of the period during which representations may be made, unless all parties agree that a hearing isn't necessary.

- 3.21 Objections will be considered by a Licensing Sub Committee, where both applicants and objectors will be provided with an equal opportunity to address the Sub Committee.

Conditions

- 3.22 As provided for by Paragraph 13 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 the Authority will maintain a set of "standard conditions" to be attached to each sex establishment licence granted, renewed or transferred by the Authority unless expressly excluded or varied. The standard conditions will be kept under review by the Council's Licensing and Enforcement Committee and if the need is identified separate sets of standard conditions will be maintained for sex shops, sex cinemas and sexual entertainment venues. Further conditions may be attached to individual licences where the authority considers it necessary.

- 3.23 Should the Authority decide to grant a licence issues that it may seek to restrict by way of condition are:

- The hours of opening and closing
- Display and advertisements on or in the sex establishment
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

- 3.24 The Authority will seek to avoid duplicating licence conditions where a premises holds licences under both the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982.

Opening Hours

- 3.25 In the case of sex establishments (other than Sexual Entertainment venues), for example shops and cinemas, the Licensing Authority will normally expect that these premises will only open between 9.30 am and 6.00 pm and remain closed on Sundays, all bank holidays and public holidays.

- 3.26 In the case of sexual entertainment venues the Licensing Authority will normally expect that these premises to only provide sexual entertainment between the hours of 12 noon and 12 midnight on Mondays to Saturday inclusive.

Refusal of licences

- 3.27 Except where the council is prohibited from granting, renewing, varying or transferring a licence, the council will not refuse a licence without first:

- Notifying the applicant or holder of the licence in writing of the reasons;
- Giving the applicant or holder of the licence the opportunity of appearing and making representations before a Licensing Sub Committee.

Mandatory Grounds for Refusal

3.28 The council must refuse to grant or transfer a licence to:

- (a) A person under the age of 18;
- (b) A person who is for the time being disqualified from holding a licence;
- (c) A person who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
- (d) A body corporate which is not incorporated in an EEA state; or
- (e) A person who has, within the period of 12 months immediately preceding the date upon which 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.

Discretionary Grounds for Refusal

3.29 An application for grant or renewal of a licence may be refused on one or more of the grounds shown below:

- (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 that the application is made is equal to or exceeds the number which the council considers is appropriate for that locality (nil may be an appropriate number for these purposes).
- (d) That the grant or renewal of the licence would be inappropriate having regard to:
 - i. The character of the relevant locality;
 - ii. The use to which any premises in the vicinity are put; or
 - iii. The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.30 An application for transfer of a licence may be refused on either or both of the grounds shown in paragraphs (a) and (b) in paragraph 3.28 above.

Revocation of licences

3.31 The council may revoke a licence:

- on any of the grounds specified in paragraph 3.27 (Mandatory Grounds for Refusal);
- on either of the discretionary grounds specified in paragraph 3.28 (a) and (b).

3.32 The council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a Licensing Sub Committee.

Cancellation of licences

- 3.33 The licence-holder may surrender the licence at any time and may request the council in writing to cancel the licence.
- 3.34 In the event of the death of a licence-holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.
- 3.35 Where the council are satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, it may extend or further extend the period in which the licence remains in force.

Appeals

- 3.36 Section 27 of the Act permits appeals by the applicant/licence holder against the decisions of the Council in relation to sex establishments. The Magistrate's Court will hear appeals in the first instance. Under normal circumstances a request for an appeal must be made to the Magistrates Court within 21 days of the Council's decision being notified to the applicant/licence holder.
- 3.37 An appeal can be made in the following circumstances:
- Refusal of an application for the grant, renewal or transfer of a licence.
 - Refusal of an application to vary terms, conditions, or restrictions on or subject to which any licence is held.
 - A grievance relating to any term, condition or restriction on or subject to which a licence is held.
 - Revocation of a licence.
- 3.38 There is a right of appeal against refusal on mandatory grounds, only where the appellant alleges the ground did not apply to them.
- 3.39 There is no right of appeal against refusal on the grounds that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.
- 3.40 There is no right of appeal for objectors.
- 3.41 A person wishing to appeal against a Council decision on a sex establishment is strongly advised to seek legal advice prior to commencing any action in a Court of Law.

4.0 Complaints and Enforcement

- 4.1 Where possible and appropriate the council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 4.2 The council is responsible for the administration and enforcement of the licensing regime and will have regard to the Department of Business Enterprise & Regulatory Reform's Regulators' Compliance Code, the Better Regulation Commission's five Principles of Good Regulation and the Licensing Services' own enforcement policy. The council will carry out its regulatory functions in a fair, open and consistent manner.
- 4.3 Specifically, the council is committed to:
- (a) be proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed;
 - (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
 - (c) be consistent – to implement rules and standards fairly;
 - (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
 - (e) target its regulatory action at cases in which action is needed.
- 4.4 The council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law or breach the conditions of the licence.
- 4.5 The council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the council will undertake its role and how the principles of effective enforcement will be achieved.
- 4.6 This policy is freely available from the Licensing Service as are details of the corporate complaints procedures, both of which can also be viewed on the Council's web site.

□ Definition of a 'Sex Establishment'

A 'Sex Establishment' is defined under the Act as a 'Sex Shop', a 'Sex Cinema' and a 'Sexual Entertainment Venue'.

It includes any premises, vehicle, vessel or stall used as a sex establishment but does not include a private dwelling to which the public are not admitted.

□ Meaning of a 'Sex Cinema'

'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
- (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.

□ Meaning of a 'Sex Shop'

'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.

- **'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
- (b) anything to which sub paragraphs (1) and (2) below applies.

This sub paragraph applies –

- (1) 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
- (2) 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

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

- **Sex Articles and Significant Degree**

Licences for sex shops are required where 18R films are being sold, or where there is a “significant degree” of “sex articles”.

The phrase ‘sex articles’ is defined in the 1982 Act, (as explained previously) 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:

- (a) the ratio of sex articles to other aspects of the business;
- (b) the absolute quantity of sales;
- (c) the character of the remainder of the business;
- (d) the nature of the displays in the business;
- (e) turnover;
- (f) other factors which appear to be materially relevant.

- **Meaning of a ‘Sexual Entertainment Venue’**

A ‘sexual entertainment venue’ means:

“any premises at which relevant entertainment is provided before a live audience for financial gain of an organiser. For the purposes of the Act it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

- **‘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). An audience includes an audience of one.

- A **‘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;

- An **organiser** means:

Any person who is responsible for the organisation or management of;

- (a) The relevant entertainment; or
- (b) The premises.

- **Exempt Premises**

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

- (a) premises at which the provision of relevant entertainment is such that:

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

- (iii) no 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

For the purposes of this policy, relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser before an audience and involves partial or full nudity.

Note: Whilst the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 provides this exemption from the need to have a sex establishment licence in the circumstance set out above there is no exemption from the Licensing Act 2003 where licensable activities take place. This includes dancing and the sale of alcohol.

Requirements for Applying for Grant, Variation, Transfer or Renewal of a Sex Establishment Licence

1. Grant of a licence

To apply for the grant of a sex establishment licence an applicant must: -

- (a) send to the council: -
 - i) a completed application form (copies can be obtained from the Council's Licensing Service);
 - ii) a plan to the scale of 1:100 of the premises to which the application relates;
 - iii) a non-returnable application fee determined from time to time by the Licensing Authority [currently set at the time of the approval of this policy at £2,000];
 - iv) a 'hearings' fee determined from time to time by the Licensing Authority [currently set at the time of the approval of this policy at £4,000] (returnable if a committee hearing is not required);
- (b) display a notice on or near the premises (template notice available from the Council's Licensing Service);
- (c) advertise the application in a local newspaper (template notice available from the Council's Licensing Service);
- (d) send a copy of the application and plan to the Chief Officer of Police, Licensing Office, Devon & Cornwall Constabulary, Police Station, Exmouth, EX8 1JZ within 7 days of making the application to the council.

2. Plan requirements

2.1 The plan shall show: -

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) the location of escape routes from the premises;
- (d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- (e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) in a case where the premises includes any booths the location and area relative to the floor;
- (h) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (i) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (j) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (k) the location of a kitchen, if any, on the premises.

- 2.2 The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

3. Public notices

- 3.1 A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the council, where it can be conveniently read from the exterior of the premises.
- 3.2 Where the premises cover an area of more than 50 square meters, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.
- 3.3 The notice must be on white paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16. A template of a blank notice can be obtained on request from the Council's Licensing Service.
- 3.4 The notice must state: -
- (a) details of the application and activities that it is proposed will be carried on or from the premises,
 - (b) the full name of the applicant,
 - (c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
 - (d) the date, being at least 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
 - (e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5,000) for which a person is liable on summary conviction for the offence.
- 3.5 A similar notice must be published in a local newspaper within 7 days of giving the application to the council.

4. Variation of a licence

- 4.1 The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 4.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

5. Renewal of a licence

- 5.1 The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.
- 5.2 The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

6. Transfer of a licence

- 6.1 A person may apply for transfer of a licence at any time.
- 6.2 The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.