



Regulatory committee

Regulatory Committee

Date: **Thursday, 15 June 2023**
Time: **16:30**
Venue: **Mancroft room**

Committee members:

Councillors:

Stutely (chair)
Ackroyd
Calvert
Catt
Davis
Everett
Francis
Huntley
Kidman
Maguire
Peek
Prinsley
Schmierer
Worley

(Council resolved in March 2023 that Regulatory and Licensing Committees would consist of the same chair, vice chair and members.)

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Information for members of the public

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For information about attending or speaking at meetings, please contact the committee officer above or refer to the council's website



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Agenda

1 Apologies

To receive apologies for absence.

2 Declarations of interest

(Please note that it is the responsibility of individual members to declare an interest prior to the item if they arrive late for the meeting).

3 Public questions/petitions

To receive questions / petitions from the public which have been submitted in accordance with the council's constitution.

4 Appointment of vice-chair

To appoint a vice chair for the ensuing civic year.

5 Statement of licensing policy for sex establishments (sex establishment policy) 5 - 48

Purpose: That members consider consulting on the attached draft statement of licensing policy for sex establishments (sex establishment policy) under the Local Government (Miscellaneous Provisions) Act 1982.

6 Standing item minutes of the regulatory subcommittee 49 - 62

To receive the minutes of the regulatory subcommittees held on 21 November 2022, 12 December 2022, 13 February 2023 and 13 March 2023.

Exempt items:

(During consideration of these items the meeting is not likely to be open to the press and the public.)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part 1 of Schedule 12 A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, members are asked to decide whether, in all circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

Date of publication: **Wednesday, 07 June 2023**



Committee name: Regulatory

Committee date: 15/06/2023

Report title: Statement of licensing policy for sex establishments (sex establishment policy)

Portfolio: Councillor Jones, Deputy Leader and Cabinet member for housing and community safety

Report from: Executive director of development and city services

Wards: All wards

OPEN PUBLIC ITEM

Purpose

That members consider consulting on the attached draft statement of licensing policy for sex establishments (sex establishment policy) under the Local Government (Miscellaneous Provisions) Act 1982

Recommendation:

To provide feedback on the draft sex establishment policy in respect of sex establishments prior to officers publishing the document for consultation, and for the draft statement to return to regulatory committee for consideration and recommendation to Council for approval.

Policy framework

The council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

This report meets the 'People live independently and well in a diverse and safe city' and 'The city has an inclusive economy in which residents have equal opportunity to flourish' corporate priorities.

Report details

1. The council has adopted the relevant part of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA 82) to enable it to licence sex establishments, which are defined as: -
 - Sexual Entertainment Venues
 - Sex Cinemas
 - Sex Shops
2. There is no specific requirement under the legislation for a local authority to adopt a sex establishment policy, however it is considered appropriate to do so to enable the council to:-
 - Set out its approach for the benefit of operators
 - Guide and reassure the public and other public authorities
 - Ensure transparency
 - Ensure consistency
 - Guide and focus members of the regulatory committee
3. The current policy was adopted by the council in June 2020. A number of factors have given rise to the need to review and update the policy before the recommended 5 year review date arising after enforcement action, hearings and discussions with licence holders.
4. The draft sex establishment policy sets out the general approach the Council will take when carrying out its regulatory role under the Act.
5. The draft sex establishment policy is attached as Appendix A. The document has been reviewed by officers working with a solicitor who is a specialist in the licensing of sex establishments. There have been some amendments to ensure up to date content and changes to the conditions for sex establishments which will better control how establishments operate.
6. In summary the amendments and changes include: links to legislation and supporting documentation have been revised, wording has been clarified and updated (e.g., ensuring it is gender neutral). There is extra guidance on making applications, on commenting on applications plus the introduction of a request for documentation to be provided in advance of any hearing. The wording of the standard conditions is also open for consultation.
7. At section 4, there is a notable change in the proposed amendment to the locality area which is to merge the two existing areas together. There is no proposed increase in number of licensed premises permitted under the policy nor to the size of the area.
8. The maximum number of sex establishments permitted under the policy remains at 4 in the area detailed on the map. This reflects the number of premises currently licensed and operating in Norwich. Currently there is an inner and an outer area both with a policy limit of 2 licensed premises. The current outer area has only 1 licensed premises. The current inner area has 3 which is contrary to the current policy, hence the proposal for the policy to be amended to reflect the practical situation.

9. The current policy requires 3 applications to be determined annually by the licensing committee even if no representations are received. By amending the locality area, the renewal of applications would be determined through delegated powers. This reduces the need for hearings and the impact on the resources of the authority and of the licence holders.
10. There are still applications that would require determination by the regulatory committee. Any application that received a valid representation would be still determined by the regulatory committee. Additionally, if an application was received that would breach the policy number limit, or if there are concerns regarding the characteristics of the locality, then applications would also be determined by the regulatory committee.
11. Separately, enforcement powers are available in the form of revocation and prosecution if a licensed premises is reported to be breaching legislation, licence conditions or if complaints are received.
12. The options available to members are:
 - To provide feedback on the draft sex establishment policy, prior to officers publishing the document for consultation, and for the draft statement to return to regulatory committee for consideration and recommendation to Council for approval.
 - To continue with the current sex establishment policy which is not due for review until June 2025.

Consultation

13. Consultation is critical to ensure any changes to the statement of policy are clear and transparent for businesses, responsible authorities and the public. If the regulatory committee approves the proposed sex establishment policy, there will be a 14-week consultation period running from 19 June 2023 to 24 September 2023.
14. There are no statutory consultees however, it is proposed to consult the following stakeholders:
 - The Chief Officer of Norfolk Constabulary
 - One or more persons who appear to the council to represent the interests of persons carrying on or proposing to carry on the business of a sex establishment in the city
 - One or more persons who appear to the council to represent the interests of persons employed either as performers or otherwise in the business of a sex establishment in the district
 - One or more persons who appear to the council to represent the interests of persons likely to be affected by or otherwise have an interest in the policy including the Planning Authority, Fire Authority, Community Safety, Environmental Protection and Child Protection.
 - Interested parties such as resident associations and trade associations

- Ward councillors

15. The sex establishment policy will also be published on Council’s consultation page on the website.

16. Any comments received will be analysed and any changes incorporated as appropriate. The regulatory committee will be asked to agree the final version and the revised sex establishment policy will be presented for approval at Council.

Implications

Financial and resources

Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council’s stated priorities, as set out in its Corporate Plan 2022-26 and budget.

17. There are no proposals in this report that would reduce or increase resources.

Legal

18. In preparing the policy, the Council must consult stakeholders that may have an interest in the policy.

Statutory considerations

Consideration	Details of any implications and proposed measures to address:
Equality and diversity	An Equality Impact Assessment is to be completed on this policy.
Health, social and economic impact	No measures proposed.
Crime and disorder	Norfolk Constabulary will be consulted on this policy. No further measures proposed.
Children and adults safeguarding	Norfolk Constabulary and Norfolk Safeguarding Children Board will be consulted on the policy. No further measures proposed.
Environmental impact	No measures proposed.

Risk management

Risk	Consequence	Controls required
Compliance	Licensing responsibilities not correctly discharged	Up to date policy framework with public consultation. Legal advice on policy and at meeting
Reputational risks to the council	Risk of challenge if non-compliant	Legal advice on policy and at meeting

Other options considered

19. Where a Council has adopted the Act and has produced a sex establishment policy it is a good practice, to review and update the statement are regular intervals or when changes occur. Therefore no other options were considered appropriate.

Reasons for the decision/recommendation

20. It is recommended that members provide feedback on the draft statement of policy in respect of sex establishments, prior to officers publishing the document for consultation. This is to ensure statutory compliance.

Background papers: None

Appendices: A – Draft statement of policy for sex establishments (sex establishment policy)

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Local Government (Miscellaneous Provisions) Act 1982

Statement of Licensing Policy

for

SEX ESTABLISHMENTS

**Incorporating Guidance and
Standard Conditions**

Approved by Regulatory Committee XXXX 2023
Adopted by Full Council XXXX 2023

Statement of Licensing Policy for Sex Establishments

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Statement of Licensing Policy for Sex Establishments

1. Introduction

This policy has been drafted in accordance with the legislative provisions contained in the Policing and Crime Act 2009 (and adopted by the City Council) that allow the Council to regulate lap dancing and similar venues and provides a framework for regulation of sex establishments in the City.

Norwich City Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that it can regulate sex establishments in the City.

In this policy:

- the Local Government (Miscellaneous Provisions) Act 1982 as amended is referred to as The Act unless otherwise stated.
- Norwich City Council as Licensing Authority for Sex Establishments is referred to as the Authority.

A Glossary of definitions and terms is provided at the end of the policy for reference.

The policy is intended to set out clear and concise guidance, procedures and principles for the benefit of the Authority, the community, applicants and other relevant parties.

Each application must be considered on its own merits, and the Regulatory Committee will have regard to this policy as part of their decision-making process, although they are not rigidly bound by it. Should the Regulatory Committee choose to depart from this policy on the facts of a particular application, clear and concise reasons for doing so will be provided.

The policy also contains standard conditions which will be applied to the different types of sex establishment and which form part of any licence granted.

This policy relates to any premises wishing to operate as a Sex Shop, Sex Cinema, or Sexual Entertainment Venue in Norwich.

Not all premises involved in such businesses will automatically require a sex establishment licence. Where there is an exemption within the legislation this has been set out in this policy document.

The Authority does not take a moral stance through the adoption of this policy. The Authority 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 our role as a licensing authority to regulate such premises in accordance with the law.

2. Policy development and consultation details

In developing this policy the Authority has had regard to the legal requirements of the Act and the Policing and Crime Act 2009 and its duties under:

- section 17 of the Crime and Disorder Act 1998;
- the Regulators' Code; and
- the Provision of Services Regulations 2009.
- the public sector equality duty.

The Authority consulted on this policy between XXXX and XXXX 2023. It was approved by the Regulatory Committee on the XXXX and adopted by Full Council on XXXX 2023.

3. Types of Sex Establishment and definitions

There are 3 types of sex establishment (as defined in the Act):

- Sex Shops
- Sex Cinemas
- Sexual Entertainment Venues.

These terms are defined in Schedule 3 of the Act (and summarised in the Glossary below). It includes any premises, vehicle, vessel or stall used as a sex establishment but does not include private dwellings to which the public is not admitted in the case of a sexual entertainment venue. No sex establishment licence is required for 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.

In deciding whether entertainment is "relevant entertainment" in respect of a Sexual Entertainment Venue the Authority will judge each case on its merits, but it may include:

- lap dancing
- pole dancing
- table dancing
- strip shows
- peep shows
- live sex shows

The Authority recognises that not all premises which provide relevant entertainment as defined below) require a Sex Establishment licence. The Act provides for exemptions.

The Act provides an exemption allowing premises without a Sex Establishment Licence to provide relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours. However, such premises will require to hold an appropriate authorisation under the Licensing Act 2003 where the type of entertainment provided constitutes

Statement of Licensing Policy for Sex Establishments

an activity that is regulated under the 2003 Act. In considering and granting such authorisations, which relate to nudity, striptease and similar, the Authority will have regard to the Authority's Statement of Licensing Policy and also the principles contained in this policy document.

Applications can be made to waive the requirement for a sex establishment licence and the Authority must be satisfied that to require a licence would be unreasonable or inappropriate. The Authority does not consider it would be appropriate to permit a waiver from the requirement to hold a Sex Establishment Licence except in exceptional circumstances (as set out in the Act), which will be considered on a case by case basis by the Authority's Regulatory Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).

4. Location of Licensed Premises

The Authority acknowledges that a concentration of licensed sex establishments in a particular area may result in a potential for fear of crime, anti-social behaviour, noise pollution and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure.

In considering the characteristics of a locality, matters that the Authority will take account include, but are not restricted to, the density and proximity of:

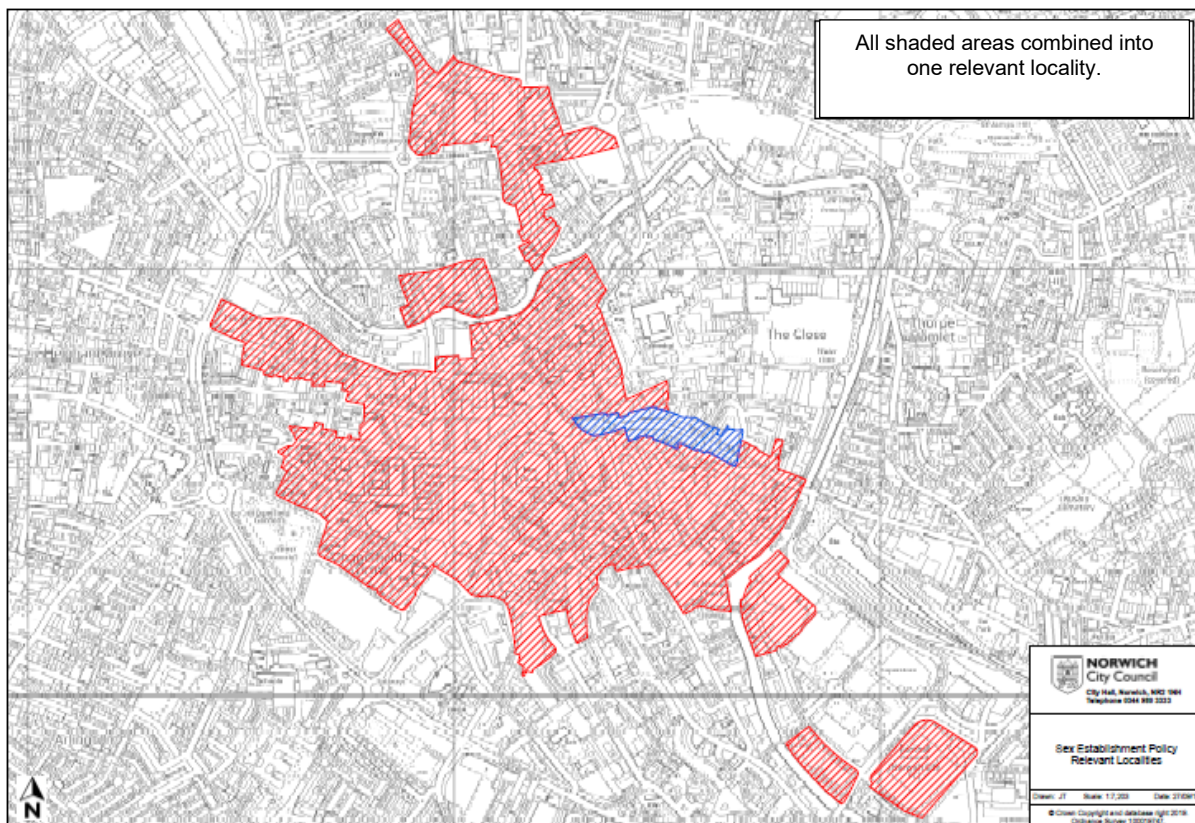
- schools, nurseries, crèches, youth hostels and other similar educational or recreational facilities attended by children,
- parks and children's play areas,
- residential and sheltered accommodation,
- religious and community buildings,
- alcohol or entertainment licensed premises,
- other retail units (and their uses).

As provided for under the provisions of the Act, the Authority can refuse applications for new or renewed licences where the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number that the Authority considers appropriate for that locality. That number can be 'nil'.

In recognising that different parts of the City have different characteristics the Authority has decided that certain areas as follows are or are not an appropriate location for a sex establishment or for more than a limited number of sex establishments but will nevertheless consider each application upon its individual merits. The Authority considers the maximum numbers should be:

Locality	number
Sex establishment relevant locality area	4
All city council areas outside that defined above	nil

Statement of Licensing Policy for Sex Establishments



Map showing the relevant locality area (both blue and red shaded areas)

5. Application Process

Applicants should be aware that planning is a separate process to licensing. Potential licence applicants are advised that appropriate planning permission should ideally be in place prior to submission of an application for a sex establishment licence.

Premises licensed under the Act as a sex establishment may also need an authorisation under the Licensing Act 2003 (for the sale of alcohol and late night refreshment).

An application for the grant, renewal, transfer or variation of a sex establishment licence must be made in writing to the Authority in accordance with the requirements shown in Annex A to this policy together with the application fee.

Applications can be made in the following ways:

- Via Email: licensing@norwich.gov.uk
- Online: [Licensing - Sex establishments | Norwich City Council](#)
- By post/personal service to: The Licensing Team, Norwich City Council, City Hall, St Peter's Street, Norwich NR2 1NH

Statement of Licensing Policy for Sex Establishments

The application must be copied by the applicant to the Police within 7 days after the date the application was made (if made in paper format), except when received by the Council electronically (when the Council must serve notice on the Police).

Applicants must provide their full name, permanent address and (where the applicant is an individual) their age. Applications made by a company or an unincorporated body must provide the full name of the company or body, the address of its registered or principal office and the full names and private addresses of the directors or other persons responsible for its management. An application relating to premises must state the proposed name and full address of the premises. An application relating to a vehicle, vessel or stall must state where it is to be used as a sex establishment.

The holder of a licence may apply to the Authority to vary the terms, conditions or restrictions on or subject to which the licence is held. The procedure for variation of a sex establishment licence is the same as the process relating to an application for a new licence.

At the time of submission of a new grant or variation application, applicants must provide a scheme showing the proposed exterior design of the premises. The scheme will be considered by the Authority as part of the application process to ensure that the interior of the premises is not visible to passers-by.

In addition, applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises for consideration by the Authority. In the case of an application relating to a sexual entertainment venue, such plan must clearly indicate the area where relevant entertainment will take place.

Applicants for sexual entertainment venues must also submit a copy of their "House Rules". Such House Rules must contain the required conduct of performers which shall include matters contained in the conditions of a sexual entertainment venue licence, i.e., no touching, no meeting customers outside of the licensed premises for any purpose, no sex acts, no giving or taking telephone numbers (including exchange of business cards). Such House Rules will form part of the licence (if granted) and may be subject to amendment by the Authority prior to approval.

Applicants must make provision for all performers to sign documentation to confirm their knowledge of and agreement to comply with the House Rules. A copy of this (redacted/blank) must be submitted to the Authority when the licence is applied for. Such documentation must be retained for the duration of the performer's employment and for a further 6 months from the date they last worked at the premises, whether they are employed directly or freelance.

Representatives of the Authority may, as part of the application process, visit the locality of the premises and the premises itself to establish whether there are any characteristics of the locality or parts of the premises which may require consideration by the Regulatory Committee.

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Applicants must also give public notice of the application by publishing an advertisement in a local newspaper which circulates in the area of the Authority to which the application has been submitted. This must be published no later than 7 days after the date of the application.

If the application relates to a premises, there is an additional requirement for notice of the application to be displayed for 21 days beginning with the date of the application on or near the premises where it can be conveniently read by the public. The notice, the form of which is prescribed by the Authority, must identify the premises (or specify where it is to be used as a sex establishment, if the notice relates to a vehicle, vessel or stall) and contain certain information specified by the authority. The Authority's prescribed notice is contained within this policy document as Appendix A.

Applicants for the grant or variation of a sex establishment licence must wait for the Authority to determine their application before they can operate a sex establishment, or operate it as requested in the variation. Tacit authorisation does not apply to applications for sex establishment licences.

If an application is for the renewal of a sex establishment licence, the premises can continue to operate past the licence expiry date and the licence will remain in force until the application is withdrawn by the applicant or determined by the licensing authority; provided that the renewal application has been submitted to the Authority before the licence expires.

Provided that an application for transfer of a sex establishment licence to a new licence holder has been made prior to the date of expiry of the licence, the licence will remain in force until the transfer application is withdrawn by the applicant or determined by the Authority.

The appropriate fees for applications are set by the Authority and can be found on the Council's website. Application fees must be paid in full at the time of submission of the application.

6. Consultation procedures and commenting on licence applications

The police are a statutory consultee for all applications.

Any persons, such as residents and businesses, may also make representations during the consultation process.

In addition to individuals and businesses, "any persons" can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise representations. Councillors may represent interested parties, providing they do not also sit on the Regulatory Committee.

Any representations from the police or representations from other persons must be received by the Authority not later than 28 days after the date when the application was made. Representations received after this date may not be taken into consideration.

Statement of Licensing Policy for Sex Establishments

Representations should be limited to matters which are relevant to the statutory grounds for refusal as set out in paragraph 12 of schedule 3 to the Act. The grounds include:

- the applicant is unsuitable to hold the licence by reason of conviction of an offence or for any other reason;
- the business to which the licence relates would be managed by or operated for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of a licence if they made the application themselves;
- the number of sex establishments in the locality is equal to or exceeds a number which the authority considers appropriate for the locality;
- that the grant or renewal or variation of the 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 or vessel or stall in respect of which the application is made.

Any representations received by the Authority which do not relate to the grounds set out in the Act will be deemed invalid and rejected by an officer. Where representations are rejected, written reasons will be given.

Representations must be made in writing (email is acceptable and encouraged) and should include the following:

- the name and address of the person or organisation making the representation
- the premises to which the representation relates
- the proximity of the premises to the person making the representation; a sketch map or plan may be helpful to show this
- the reasons for making the representation, which are clearly set out in relation to the grounds for refusal (as stated above).

Any Petitions received must clearly state the name and address of the premises that are the subject of the opposed application. The full ground(s) of representation that people are signing to say they agree, with must be at the top of the petition. The representation(s) must relate to the grounds for refusal (as detailed below). The names and addresses of those signing the petition should be provided and should be legible, together with a signature.

The Authority must be confident that those signing the petition did so in the full knowledge of the subject matter of the petition. In the interest of clarity the full ground(s) of the representation must be set out at the top of each page. This applies particularly where several people are involved in collecting signatures. The Regulatory Committee will decide on a case by case basis as to what weight it will give to representations raised through petitions.

It should be noted that submissions to the Authority may also be made in support of an application. These should also follow the same information standards as set out above.

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The names and addresses of objectors will not be disclosed to applicants, or published in public reports, without the consent of the person making the representation.

Valid representations will be considered by the Regulatory Committee at a hearing to consider the application. The Regulatory Committee hearing procedures will apply and these can be found on our website www.norwich.gov.uk

Documentary and other evidence may only be referred to by a party if it has been disclosed to all the other parties and the Authority at least five working days prior to commencement of the hearing.

Parties will be allowed to make a closing summary, ending with the applicant.

Details of applications and representations which are referred to the Regulatory 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. Certain items or information will therefore have to be excluded from the public domain as permitted by the Local Government Act 1972.

7. Determination of applications

When considering applications, the Authority will have regard to:

- the Act
- any supporting regulations
- guidance issued by the Home Office
- this Statement of Licensing Policy
- any valid representations received
- the Human Rights Act 1998
- the Equality Act 2010
- any other relevant legislation, policy or guidance

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 representations on any application where they are permitted to do so under the Act.

When determining applications, the Authority will take account of any comments or representations received from:

- Norfolk Constabulary;
- Norwich City Council Environmental Protection Service
- The authority enforcing health & safety at the premises
- Norwich City Council Planning Services
- Norfolk Fire Service
- Norfolk Safeguarding Children Board
- Any other relevant department or authority
- The public

Statement of Licensing Policy for Sex Establishments

The Authority reserves the right to consult any other body that it considers appropriate.

In making licensing decisions the Authority will be mindful of the public sector equality duty under the Equality Act 2010. Decisions will be taken with due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by or under the Equality Act 2010.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Paragraph 12 (1) (a-e) of Schedule 3 of the Act prohibits the Authority from granting a licence:

- (a) to a person under the age of 18; or
- (b) to a person who is for the time being disqualified from holding a licence following revocation of such a licence; or
- (c) to a person, other than a body corporate, who is not resident in the United Kingdom or an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in the United Kingdom or an EEA state;
- (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.

Please note there is no right of appeal against failure to grant a licence on these mandatory grounds unless the applicant seeks to show that the ground did not apply to them.

Subject to the following paragraph, if the application is valid and no representations have been received and there are no other statutory grounds for refusal, the application will be granted by an officer by way of delegated authority.

In cases where representations have been received; or if there are concerns regarding the characteristics of the locality; or any other discretionary ground of refusal exists, including that if the application were granted then any maximum number of premises in a relevant locality would be exceeded (as detailed in section 4 of this policy), then the application will be referred to the Regulatory Committee for a hearing and determination of the application.

Subject to the statutory provisions mentioned above, the Authority may, if they think fit, transfer a licence to any other person upon application by that person.

The Authority will give an opportunity to appear before the Regulatory Committee:

Statement of Licensing Policy for Sex Establishments

- (a) before refusing to grant a licence to the applicant;
- (b) before refusing to vary or renew a licence, to the holder; and
- (c) before refusing to transfer a licence, to the holder and the person to whom they desire that it shall be transferred.

Each application will be decided upon its own merits.

The Authority will give clear reasons for its decisions.

The Authority will grant licences for the maximum duration of one year unless it thinks fit to grant for a shorter period. The licence will remain in force for one year, or such shorter period specified in the licence, unless previously cancelled or revoked.

When granting a sex establishment licence the Authority is permitted to issue it on such terms and conditions and subject to restrictions as may be specified in the licence. The Authority has the power to specify individual conditions in a licence and make standard conditions applicable to all licences for sex establishments. Every sex establishment licence granted, renewed or transferred by the authority shall be subject to any standard conditions applicable to it unless they have been expressly excluded or varied.

8. Conditions

The Authority will attach standard conditions (as specified in Appendices B-D to this Policy document) to all sex establishment licences.

Additional conditions attached to an individual licence will not duplicate conditions applicable to licences granted under other legislation. Any additional conditions will relate to the activity provided under the sex establishment licence and may arise in the following circumstances:

- When offered by the applicant as part of the application;
- Voluntarily following representations made by any the police or any other relevant body or authority;
- By the Regulatory Committee following receipt of a representation and a hearing.

Applicants who wish to be exempt from the requirements of any of the standard conditions should state, with full reasons, why they should be so exempted, when making an application.

It is an offence to breach the conditions and the penalty for this is an unlimited fine.

9. Refusal of licences

Except where the Authority are prohibited from granting, renewing, varying or transferring a licence, the Authority 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 Regulatory Committee.

Statement of Licensing Policy for Sex Establishments

As stated above, in accordance with Paragraph 12(1) of Schedule 3 to the Act the Authority **must refuse** to grant or transfer a licence in certain mandatory cases.

In accordance with Paragraphs 12(2) and (3) of Schedule 3 to the Act the Authority **may refuse**:

- an application for grant or renewal of a licence on one or more of the grounds shown below;
- an application for transfer of a licence on either or both of the grounds shown at (a) and (b) below.

The grounds for refusal are:

- (a) That the applicant is unsuitable 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 they made the application themselves;
- (c) That the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined, is equal to or exceeds the number which the Authority considers is appropriate for that locality;
- (d) That the grant or renewal of the licence would be inappropriate having regard to:
 - The character of the relevant locality; or
 - The use to which any premises in the vicinity are put; or
 - The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

10. Revocation of licence

The Authority may revoke a sex establishment licence by virtue of Schedule 3 paragraph 17(1) of the Act:

- on any of the mandatory grounds which are detailed in section 7 above
- or either of the grounds in respect of (a) or (b) detailed at section 9 above, namely that the licence holder is unsuitable or that the manager or beneficiary of the licence is unsuitable.

The Authority will not revoke a licence without first giving the holder of the licence the opportunity of appearing, and making representations, before a Regulatory Committee.

Should the Authority revoke a sex establishment licence, full reasons for the revocation will be provided to the licence holder as soon as reasonably practicable following the determination, and within 7 days of the decision if required to do so by the licence holder.

Revocation of a sex establishment licence would disqualify the licence holder from holding or obtaining another sex establishment licence in the Authority's area for a

period of 12 months beginning with the date of revocation. However, this does not prevent the licence holder from seeking a licence in another local authority's area.

11. Cancellation of licences

The licence-holder may surrender the licence at any time by requesting in writing that the Authority cancel the licence.

In accordance with Paragraph 15 of Schedule 3 to the Act, 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. The representatives must comply with the conditions of the licence and should not be someone who would not normally be granted a licence in their own right.

Where the Authority is satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, and that no other circumstances make it undesirable, it may extend or further extend the period in which the licence remains in force on application by the personal representatives.

12. Right to appeal a decision

If an application is refused, or licence revoked, following a hearing, then the applicant or licence holder will be informed of the decision and whether there is any right of appeal.

Appeals must be made to a magistrates' court within 21 days, starting from the date the applicant or licence holder is notified of the Authority's decision. It should be noted that a fee may be payable to the magistrates' court to lodge such an appeal.

Applicants or licence holders can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed. Please note there is no appeal against the Authority's decision on an application for the grant or renewal of a licence if the application was refused on the grounds that:

- the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
- the grant or renewal of the 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.

Appellants who do not agree with the decision made by the magistrates' court (in an appeal process), can appeal to the Crown Court. The decision made by the Crown Court will be final. The Authority must comply with a decision made by a magistrates' court or the Crown Court.

13. Compliance Monitoring and enforcement

The Authority will adopt an intelligence led and risk-based approach to its monitoring and inspection regime. The Authority also reserves the right to conduct random spot checks from time to time, as it sees fit.

It is further recognised that sexual entertainment venues may also be regulated by other legislation, due to the nature of those operations and the activities provided, and therefore may require more frequent inspection. Wherever possible, co-ordinated enforcement inspections will be undertaken with other enforcing bodies, e.g., the Police.

The Authority's approach to enforcement is set out in the Council's Enforcement Policy which is available on the Authority's website www.norwich.gov.uk

Breach of conditions or legislative requirements may result in formal action being taken by the Authority which can include revocation of, or a decision not to renew, a licence. The Authority may also prosecute in respect of serious offences.

14. Exchange of Information

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.

15. Policy Evaluation and review

This policy will be regularly reviewed and monitored by the Authority's officers to ensure that it reflects current legislation, is effective, up to date and achieving a responsible regulatory framework for Norwich.

This will be achieved by monitoring the outcome of hearings, appeals through the magistrates' courts, developments in legislation, by having regard to relevant case law, local needs and economic impacts.

This Policy will be reviewed on a 5-yearly basis or such shorter period as the Authority considers necessary. Any proposed amendments to the Policy will be the subject of consultation prior to adoption by the Authority.

GLOSSARY, DEFINITIONS and BIBLIOGRAPHY

Sex Shop

(1) Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- (a) sex articles; or
- (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.

(2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

Sex Articles

(3) (a) anything made for use in connection with, or for the purpose of stimulating or encouraging:

- (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity;
- and

(b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies:

(a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and

(b) to any recording vision or sound, which:

- (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
- (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sex Cinema

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

(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:

- (i) sexual activity; or
- (ii) acts of force or restraint which are associated with sexual activity; or

(b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

Statement of Licensing Policy for Sex Establishments

but does not include a dwelling-house to which the public is not admitted.

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

- (a) if they are licensed for an exhibition of a film under the Licensing Act 2003;
or
- (b) of their use for an exhibition of film to which Section 6 of the Cinemas Act 1985 (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of that Act.

Sexual Entertainment Venue

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

(2) "relevant entertainment" means:

- (a) any live performance; or
- (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

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

(a) sex cinemas and sex shops;

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

- (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
- (ii) no such occasion has lasted for more than 24 hours; and
- (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub paragraph (i)):

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

(4) References to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

(5) In this Policy:

Statement of Licensing Policy for Sex Establishments

“**audience**” includes an audience of one;

“**display of nudity**” means:

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

“**the organiser**”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of:

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

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

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

Significant Degree & Sex Articles

In practical terms, “significant degree” in relation to sex cinemas means that a sex cinema is one that shows films classified by the British Board of Film Classification as R18 (to be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults only).

Licences for sex shops are required where the business, not the premises used by the business, consists to a “significant degree” of selling, hiring, exchanging, lending, displaying or demonstrating relevant articles (see the definition of “sex articles” above) unless an exemption applies.

It should be noted that in respect of mail order, the Video Recordings Act 1984 states at section 7(2)(c) that a video recording that may only be viewed by persons aged 18 or over is only to be supplied in a licensed sex shop. Case law precludes the sale of 18R rated films by mail order from premises with the benefit of a sex shop licence because the supply of the R18 product to a person aged 18 or over cannot be confirmed; such supply would fail to ensure that the age controls are properly enforced.

Although “sex articles” are defined in the Act, the phrase “a significant degree” is not. When considering whether or not a business involves a significant degree of sex articles and needs to be licensed under the Act, the Authority will apply a broad judgement to determine whether the statutory test is satisfied. Matters which the authority take into consideration may include :

- (1) the ratio of sex articles to other aspects of the business
- (2) the absolute quantity of sales
- (3) the character of the remainder of the business
- (4) the nature of the displays in the business
- (5) turnover

Statement of Licensing Policy for Sex Establishments

(6) other factors which appear to be materially relevant.

Form of Notice – Indecent Displays (Control) Act 1981 section 1(6):

The Authority's Standard Conditions require that a warning notice be displayed in accordance with the above legislation. The legislation states:

(a) The warning notice must contain the following words, and no others:

“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.”

(b) The word “WARNING” must appear as a heading.

(c) No pictures or other matter shall appear on the notice.

(d) The notice must be so situated that no one could reasonably gain access to the shop or part of the shop in question without being aware of the notice and it must be easily legible by any person gaining such access.

Bibliography and further guidance

- Copies of Acts of Parliament and regulations can be viewed at www.legislation.gov.uk
- Home Office guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales.” [\[ARCHIVED CONTENT\] \(nationalarchives.gov.uk\)](http://nationalarchives.gov.uk)
- Home Office guidance issued under section 182 of the Licensing Act 2003 in December 2022 <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

APPENDIX A

NOTICE OF APPLICATION FOR THE GRANT / VARIATION / RENEWAL / TRANSFER* OF A SEX ESTABLISHMENT LICENCE

I/we

.....
.....

hereby give notice that I/we have applied to Norwich City Council under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended for a licence to use the premises referred to below as a Sex Shop / Sex Cinema / Sexual Entertainment Venue* as detailed below.

Licensed Premises

Name.....

Address of premises or location of vehicle/vessel/stall (as applicable)

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

Proposed days/hours of operation and variation (if applicable)

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

Any person wishing to make representations about the application should make them in writing to the [PLEASE INSERT ADDRESS OF THE OFFICE OF THE COUNCIL THAT IS DEALING WITH THE APPLICATION] within 28 days of the date of the application which was [INSERT DATE].

Signed.....**Date**.....

Notes:

1. Enter full details of the application on this form, including the name of the premises being requested as “the licensed name”, proposed hours of operation and details of any variation requested.

2. Affix a copy of the completed Notice on the day of making the application, on the premises to which the application relates, in a prominent position that may be easily read by the public.

You must ensure that this Notice remains in position for 21 days.

3. The content of this Notice, as completed, must be published in a local newspaper within 7 days of making the application.

* Delete as applicable

APPENDIX B

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO SEX SHOPS AND SEX CINEMAS

Introduction

1. In these Conditions “The Council” shall mean Norwich City Council and all enquiries concerning this licence shall be directed to the Licensing Team, Citywide Services, Norwich City Council, City Hall, St Peters Street Norwich NR2 1NH.
2. These conditions are imposed by the Council, pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act, as terms, conditions and restrictions on a subject to which a licence is, in general, to be granted, renewed, varied or transferred by the Council save, and insofar as, they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to “Sex Shop and Sex Cinema” premises (the Premises).

Management of the Premises

4. The Licensee, or a responsible person over the age of 18 having been nominated by them and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”), shall have personal responsibility for and be present on the Premises at all times when the premises are open to the public.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. The licence, or a clear copy, shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the Council. A copy of the conditions attached to the licence shall be kept on the premises and be immediately made available for inspection by an authorised officer of the council, a police officer or a fire officer upon request.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be prominently displayed at all times so as to be readily and easily seen by all persons visiting the premises throughout the period during which he is responsible for the conduct of the Premises.

Statement of Licensing Policy for Sex Establishments

8. The Licensee shall retain control over all areas of the Premises and shall not let, licence or surrender possession of any area. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where such facilities are provided for customers.
10. Neither the Licensee nor any employee or agent shall directly or indirectly solicit custom for the Premises outside or in the locality of the premises.
11. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating their name and that they are employed at the Premises.
12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the sex establishment in the Licensee's absence and the names and addresses of those employed in the sex establishment. The Register is to be completed each day within thirty minutes of the sex establishment being opened for business and is to be retained at the Premises and immediately made available for inspection by the police and by authorised officers of the Council upon request.
13. No person under the age of 18 shall be admitted to the Premises.
14. A Challenge 25 age verification policy must be implemented at the Premises. Persons who appear to be under the age of 25 will be required to show proof of age prior to admittance. A notice to this effect must be displayed at all entrances to the premises.
15. All persons working in the premises shall be aged not less than 18 years. The Licensee must maintain a record of the names, addresses and dates of birth of persons working in the Premises including details of relevant identity checks. The record shall be retained at the Premises and immediately made available for inspection by the police and by authorised officers of the Council upon request.
16. The Licensee shall ensure that a closed-circuit television system is installed and maintained internally and externally to the satisfaction of the Norfolk Constabulary. The system shall be operational at the Premises at all times when licensable activities are being carried out and at any other times when members of the public are present on the Premises. The CCTV system shall have sufficient storage retention capacity for retention of a minimum of 31 days' continuous footage, which shall be of good quality. Any CCTV images captured on cameras installed at the Premises shall, on the lawful request of the police or an authorised officer of the Council, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. The Licensee must ensure compliance with the relevant provisions of the Data Protection Act 2018, in so far as they relate to the Premises.

Statement of Licensing Policy for Sex Establishments

17. The Licensee shall provide upon request copies of any documents or other material reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Opening of the Premises

18. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:

Monday – Saturday 9:30 am – 6:00 pm

19. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Sundays, Christmas Day or Good Friday.

Operation of the Premises

20. Approval from the Council is required for changes from:

- a sex shop (including a mail-order shop) to either a sex cinema or sexual entertainment venue
- sex cinema to either a sex shop or sexual entertainment venue
- a sexual entertainment venue to either a sex cinema or a sex shop.

This will require consideration of an appropriate application.

21. No sex articles or other items intended for, or capable of, use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be used, displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

22. The primary use of a sex shop must be for the purpose of the sale of goods by retail.

External Appearance

23. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that persons who appear to be under the age of 25 will be required to show proof of age prior to admittance.

24. The exterior design of the Premises shall be such that the interior of the Premises is not visible to passers-by.

25. The windows and openings of the Premises shall be of a material or covered with a material, which will ensure the interior of the Premises is not visible to passers-by.

26. No items will be stored on the Premises in a way that they can be viewed from any external window or door.

Statement of Licensing Policy for Sex Establishments

27. The windows, doors, fascia board, walls and all external parts of the Premises, including the roof, shall not contain any form of writing, sign or display save for:

- (i) The licensed name of the premises may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
- (iii) A notice stating the opening hours of the Premises.
- (iv) The wording "PRIVATE SHOP" or "ADULT SHOP" but no other indication as to the nature of the business carried on at the licensed Premises.

28. The lettering used in respect of such permitted items:

In the case of the permitted items at paragraph 28 'i', 'ii' and 'iv' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.

29. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, or otherwise unless prior approval has been given by the Council in writing;
- (b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

30. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and their obligations under any lease or other agreement for the use of the Premises, they shall maintain the Premises in good repair and condition.

31. Subject to fire safety requirements, all external doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

32. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible at any time except when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

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

34. Internal lighting shall be in operation continuously during the whole of the time that the Premises are open to the public.

35. The external appearance of the premises must be approved by the Council in writing. Alterations of, or additions to, the Premises, either internal or external, must

Statement of Licensing Policy for Sex Establishments

not be made without the prior written consent from the Council. A variation application will be required in order for consent to be considered.

36. No previewing of films, video recordings or other similar material shall be allowed to be shown in the premises. (N.B. This condition only relates to Sex Shops).

37. No fastenings of any description shall be fitted upon any booth or cubicle within the Premises nor shall more than one person (including any employee be present in any such booth or cubicle at any time). Appropriate fastenings are permitted on toilet doors.

Goods Available in Sex Establishments

38. All sex articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within the shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.

39. All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Premises. (This regulation does not require that films or video films be exhibited (played) to customers).

40. No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.

41. No 18R classified films may be sold or supplied by Mail Order.

Information for Customers

42. The Licensee shall make available in the Premises free counselling and advice literature on matters related to sexual health and issues as may be published by the Family Planning Association, the NHS and/or other similar organisations. Such literature must be displayed in a prominent position, preferably adjacent to all points of sale in the Premises.

Licensed Name

43. (a) The Council at the time of granting the licence in respect of the premises shall designate a name referred to as "the licensed name" by which it is intended that the Premises shall be known and the licence holder shall ensure that the Premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such licensed name shall have been provided on the application form.

(b) An application in respect of a change of the licensed name shall be made to the Council in writing not less than 28 days prior to the proposed change

Statement of Licensing Policy for Sex Establishments

and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

APPENDIX C

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO MAIL-ORDER PREMISES

INTRODUCTION

1. In these Conditions “The Council” shall mean the Norwich City Council and all enquiries concerning this licence shall be directed to the Licensing Team, Citywide Services, Norwich City Council, City Hall, St Peters Street Norwich NR2 1NH.
2. These conditions are imposed by the Council, pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act, as terms, conditions and restrictions on a subject to which a licence is, in general, to be granted, renewed, varied or transferred by the Council save, and insofar as, they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a “Mail-Order Sex Shop” premises (the Premises).

Management of the Premises

4. The Licensee, or a responsible person over the age of 18 having been nominated by them and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”), shall have personal responsibility for and be present on the Premises at all times when the Premises are operating.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. The licence, or a clear copy, shall be available on any website relating to the mail order business carried on at the premises. The licence, or a clear copy, shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the Council. A copy of the conditions attached to the licence shall be kept on the premises and be immediately made available for inspection by an authorised officer of the council, a police officer or a fire officer upon request.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.

Statement of Licensing Policy for Sex Establishments

8. The Licensee shall retain control over all areas of the Premises and shall not let, licence or surrender possession of any area. The Council must be immediately notified in the event that any area of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.

9. The Licensee shall ensure that the public is not admitted to any part of the Premises. No person under the age of 18 years will be admitted to the premises at any time, for whatever reason or purpose.

10. All persons working in the premises shall be aged not less than 18 years. The Licensee must maintain a record of the names, addresses and dates of birth of persons working in the premises including details of relevant identity checks. The record shall be retained at the Premises and immediately made available for inspection by the police and by authorised officers of the Council upon request

11. Neither the Licensee nor any employee or agent shall directly or indirectly solicit custom for the Premises outside or in the locality of the Premises.

12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Premises in the Licensee's absence and the names and addresses of those employed in the Premises. The Register is to be completed each day within thirty minutes of the Premises being opened for business and is to be retained at the Premises and immediately made available for inspection by the police and by authorised officers of the Council.

13. The Licensee shall provide upon request copies of any documents or other material reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Operation of the Premises

14. Approval from the Council is required for changes from:

- a sex shop (including a mail-order shop) to either a sex cinema or sexual entertainment venue
- sex cinema to either a sex shop or sexual entertainment venue
- a sexual entertainment venue to either a sex cinema or a sex shop.

This will require consideration of an appropriate application.

15. No sex articles or other items intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be used, displayed, sold, hired, exchanged, loaned or demonstrated in mail order sex shop premises.

16. The Premises shall be used exclusively for mail-order purposes only, selling sex articles and other things that fall within the definitions contained in Schedule 3, paragraph 4 (1)(a) or(b) of the Local Government (Miscellaneous Provisions) Act 1982.

Statement of Licensing Policy for Sex Establishments

17. All advertisements, catalogues, sales documents used in connection with the business intended or likely to be seen by customers will clearly and prominently state "MAIL ORDER ONLY". All deliveries/despaches of parcels shall be in plain wrapping not identifying what is inside.

External Appearance

18. No external nameplate, advertisement board or any other written, pictorial or graphic display connected with the business shall be observable from outside the building, or from other units within the building or from the common parts of the building.

19. The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

20. The windows and openings of the Premises shall be of a material or covered with a material, which will ensure the interior of the Premises is not visible to passers-by.

21. No items should be stored on the premises so that they can be viewed from any external window or door.

State, Condition and Layout of the Premises

22. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and their obligations under any lease or other agreement for the use of the Premises, they shall maintain the Premises in good repair and condition.

23. Subject to fire safety requirements, all external doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

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

25. The external appearance of the premises must be approved by the Council in writing. Alterations of, or additions to, the Premises, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

Goods Available in Sex Establishments

26. No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.

27. No 18R classified films may be sold or supplied by Mail Order.

Statement of Licensing Policy for Sex Establishments

Licensed Name

28. (a) The Council at the time of granting the licence in respect of the Premises shall designate a name referred to as “the licensed name” by which it is intended that the Premises shall be known and the licence holder shall ensure that the Premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such licensed name shall have been provided on the application form.

(b) An application in respect of a change of the licensed name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

APPENDIX D

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO SEXUAL ENTERTAINMENT VENUE PREMISES

INTRODUCTION

1. In these Conditions “The Council” shall mean the Norwich City Council and all enquiries concerning this licence shall be directed to the Licensing Team, Citywide Services, Norwich City Council, City Hall, St Peters Street Norwich NR2 1NH.
2. These conditions are imposed by the Council, pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act, as terms, conditions and restrictions on a subject to which a licence is, in general, to be granted, renewed or transferred by the Council save, and insofar as, they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a “Sexual Entertainment Venue” premises (the Premises).

Management of the Premises

4. The Licensee, or a responsible person over the age of 18 having been nominated by them and approved in writing by the Council for the purpose of managing the Premises (“the manager”), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. The licence, or a clear copy, shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the Council. A copy of the conditions attached to the licence shall be kept on the premises and be immediately made available for inspection by an authorised officer of the council, a police officer or a fire officer upon request.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be prominently displayed at all times so as to be readily and easily seen by all persons visiting the premises throughout the period during which he is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all areas of the Premises and shall not let, licence or surrender possession of any area. The Council must be immediately

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notified in the event that any area of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.

9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where such facilities are provided for customers.

10. Neither the Licensee nor any employee or agent shall directly or indirectly solicit custom for the Premises outside or in the locality of the Premises.

11. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Premises in the Licensee's absence and the names and addresses of those employed in the Premises. The Register is to be completed each day within thirty minutes of the Premises being opened for business and is to be retained at the Premises and immediately made available for inspection by the police and by authorised officers of the Council upon request.

12. The Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") to ensure compliance with these conditions, in particular the no touching conditions, and to ensure the safety of performers.

13. The Licensee shall ensure welfare training is provided to a designated person responsible for the welfare of the dancers, to include safeguarding, health and safety and wellbeing.

14. No person under the age of 18 shall be admitted to the Premises.

15. A Challenge 25 age verification policy must be implemented at the Premises. Persons who appear to be under the age of 25 will be required to show proof of age prior to admittance. A notice to this effect must be displayed at all entrances to the Premises.

16. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain a record of the names, addresses and dates of birth of performers including details of relevant identity checks. The record shall be retained at the Premises and immediately made available for inspection by the police and by authorised officers of the Council upon request.

17. The Licensee must submit a set of "House Rules" to the Licensing Authority as part of the application process; these rules will form part of the licence and must be observed at all times. The licensee must ensure that all performers are fully conversant with and sign an agreement to adhere to such House Rules.

18. In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, then the Licensee shall ensure that a closed-circuit television system is installed and maintained internally and externally to the satisfaction of the Norfolk Constabulary. The system shall be operational at the Premises at all times when licensable activities are being carried out and at any

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other times when members of the public are present on the Premises. The Licensee must ensure compliance with the relevant provisions of the Data Protection Act 2018, in so far as they relate to the Premises.

19. The CCTV system shall have sufficient storage retention capacity for retention of a minimum of 31 days' continuous footage, which shall be of good quality. Any CCTV images captured on cameras installed at the Premises shall, on the lawful request of the police or an authorised officer of the Council, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer.

20. CCTV must be capable of monitoring the whole of the Premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the Premises. The CCTV system must be monitored at all times that the Premises are in operation.

21. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.

22. Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

23. The Council may specify, in writing, the number of members of the public that shall be present on the Premises at any time whilst relevant entertainment takes place, on grounds which may include public safety, prevention of public nuisance or crime and disorder. The Licensee shall ensure that the number specified is not exceeded at any time.

24. The Licensee shall provide upon request copies of any documents or other material reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

25. The Licensee shall provide adequate non-public changing rooms for performers.

Opening of the Premises

26. Relevant entertainment as defined in schedule 3, paragraph 2A (2) of the Local Government (Miscellaneous Provisions) act 1982 may only be provided during the hours permitted by an authorisation under the Licensing Act 2003 unless a specific condition on the sexual entertainment venue Licence permits otherwise.

Operation of the Premises

27. Approval from the Council is required for changes from:

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- a sex shop (including a mail-order shop) to either a sex cinema or sexual entertainment venue
- sex cinema to either a sex shop or sexual entertainment venue
- a sexual entertainment venue to either a sex cinema or a sex shop.

This will require consideration of an appropriate application.

28. No sex articles or other items intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be used, displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue.

External Appearance

29. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises at each entrance. The notice must also include a statement that persons who appear to be under the age of 25 will be required to show proof of age prior to admittance.

30. The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

31. The windows and openings of the Premises shall be of a material or covered with a material, which will ensure the interior of the Premises is not visible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the Premises, with the exclusion of Door Supervisors.

32. The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that relevant entertainment takes place on the Premises.

33. External advertising of relevant entertainment shall not include any of the following:

- a) any depiction of full nudity
- b) any depiction of partial nudity (including the display of breasts, buttocks or genitalia)
- c) any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm.

34. The windows, doors, fascia board, walls and all external parts of the Premises including the roof shall not contain any form of writing, sign or display save for:

- (i) The licensed name of the Premises may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
- (iii) A notice stating the opening hours of the Premises.

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35. The lettering used in respect of such permitted items:-

In the case of the permitted items at paragraph 35 'i' and 'ii' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.

36. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises unless approved by the Council in writing;

(b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

37. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and their obligations under any lease or other agreement for the use of the Premises, they shall maintain the Premises in good repair and condition.

38. Subject to fire safety requirements, external doors shall be closed at all times other than when persons are entering or leaving the Premises or unless there is an internal lobby with doors preventing the inside of the Premises being viewed externally. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

39. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

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

41. Internal lighting, to a level acceptable to the Council, shall be in operation continuously during the whole of the time that the Premises are open to the public.

42. The external appearance of the premises must be approved by the Council in writing. Alterations of, or additions to, the Premises, either internal or external, or any proposed amendments to licence conditions shall not be made without prior written consent from the Council. An application will be required in order for consent to be considered, which will be considered by the Council's Regulatory Committee.

43. All booths, cubicles or VIP areas used for private dances must be visible to supervision and must not have closing doors, curtains or coverings of any description.

44. All booths, cubicles and VIP areas used for private dances must be directly supervised by either an SIA registered door supervisor, or a member of staff who has direct contact with SIA registered door supervisors working on the premises at

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all times the booths/cubicles/VIP areas are in use. Direct supervision does not include remote supervision by CCTV.

Provision of Relevant Entertainment

45. Performers shall only perform in designated areas specified on the approved licence plan, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.

46. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.

47. Performers must remain clothed in public areas and all other areas in the Premises except while performing in areas approved by the Council for the provision of relevant entertainment.

48. At the conclusion of their performance, a performer must replace sufficient articles of clothing in order to comply with condition 47 and prevent any nudity in an area not designated and approved by the Council for the provision of relevant entertainment. This does not prevent performers going to their non-public dressing area to change their clothing.

49. Performers may not accept any telephone number, email address, address or contact information from any customer.

50. Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.

51. Performers must not perform a nude table dance unless in an area directly supervised by either an SIA registered door supervisor, or a member of staff who has direct contact with SIA registered door. Direct supervision does not include remote supervision by CCTV.

52. Performers are never to be in the company of a customer except in an area open to the public within the Premises (this excludes the toilets as performers must not use the public toilets whilst open to the public).

53. The Licensee must ensure that during the performance of a table or lap dance:

- (1) Customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
- (2) Customers must remain seated during the entire performance of the dance;
- (3) For the purpose of restraint only, performers may only touch a customer above the customer's chest (excluding the head) with their hands only;
- (4) Performers must not sit on or straddle the customer;
- (5) Performers must not place their feet on the seats;
- (6) Customers must not touch a performer (except as allowed in condition 56).

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54. The Licensee must ensure that during performances of relevant entertainment:

- (1) Performers may not perform any act that clearly simulates any sexual act;
- (2) Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;
- (3) Performers may not intentionally touch a customer any time during the performance unless accidentally or due to the act of a third party;
- (4) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
- (5) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the performer has no intention of carrying out the act;
- (6) Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.

55. The Licensee must ensure that during performances of relevant entertainment:

- (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for relevant entertainment.
- (2) Customers must remain appropriately clothed at all times.

56. At all times there must be no physical contact between customers and employees, or other persons working within the premises, in any part of the premises save for the following:

- The payment of an entry fee by customers to authorised members of staff.
- The payment of a fee for relevant entertainment.
- The purchasing of drinks by customers from authorised members of staff.
- The placing of bank notes by the customer in a garter or armband worn by a performer.
- SIA door staff in the execution of their duties.
- Any other activity for which the prior written approval of the Council has been given.

57. Relevant entertainment will only take place in specified designated areas within the premises, as identified on the plan attached to the licence.

58. Notices outlining condition 53 will be clearly displayed at each entrance to the premises and in the specified designated areas. Notices must state that no touching relates to customers touching performers and other persons working within the premises and vice versa.

59. Performers must stop immediately and move away from any customer who is offensive or attempts to touch them and shall report such behaviour and any other inappropriate behaviour, or breach of house rules, to the management of the Premises. If, after receiving a warning, a customer continues to behave inappropriately, the customer must be requested to leave the Premises and should

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be escorted from the Premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

Licensed Name

60. (a) The Council at the time of granting the licence in respect of the Premises shall designate a name referred to as “the licensed name” by which it is intended that the Premises shall be known and the licence holder shall ensure that the Premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such licensed name shall have been provided on the application form.
- (b) An application in respect of a change of the licensed name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.



Regulatory Subcommittee

14:00 to 16:00

21 November 2022

Present: Councillors Huntley (chair), Brociek-Coulton, Grahame and Kidman

1. Declarations of Interest

There were no declarations of interest.

2. Exclusion of the public

RESOLVED to exclude the public from the meeting during consideration of item *3 to 4* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

***3. Application for the grant of a private hire drivers licence: application ref 22/01868/PHDRIV**

(The applicant and the public protection licensing adviser were admitted to the meeting).

The chair introduced members of the committee to the applicant. The committee confirmed the applicant's identity using the applicant's driving licence. The applicant confirmed that he was aware of his right to legal representation but had chosen not to be. The applicant also confirmed that there were no pending court cases against him. The applicant advised he had not read the report. The applicant was then provided with a copy of the report, and this was read out fully by the public protection licensing adviser in her presentation.

The public protection licensing adviser presented the report.

The applicant answered questions from members in relation to his caution in April 2019 and provided detail surrounding the circumstances and the stresses he had been suffering from at the time relating to his immigration status.

He assured committee this was a one off matter and that he had been young and foolish. He was now in a relationship and had a baby on the way and wanted a permanent job to support his family.

The applicant answered questions from members in relation to the offence in November 2019. Committee noted that the offence took place in May 2019

although the date of the conviction was November 2019. The applicant referred to the stresses he had been under at that time and advised that these triggers no longer applied due to his changed situation.

A member asked for details surrounding the applicant's speeding offence in January 2019. The applicant advised that he was caught by a camera travelling at 34mph in a 30mph zone. He advised that he had a friend in the car and had sped up after passing through traffic lights. He had been influenced by peer pressure and regretted his actions. The chair noted if the applicant were granted a licence he might have a passenger in the car who encouraged him to speed and asked how he would respond. The applicant advised he would not risk losing his licence and would tell the passenger it was his job to get him to his destination safely.

The applicant confirmed in response to a member question that he had been driving without incident for the last three years. The applicant emphasised that he had a good work history and could provide references from his current and previous employers stating this.

The chair noted the applicant had said in relation to his caution in April 2019 that it was a one off event but he had been caught committing a similar offence in May 2019. The applicant advised that he had responsibility now and again referred to his good work history.

A member asked the applicant why he had not read the committee report, he advised it had been sent to his family's address but he had been staying with his girlfriend. He advised that his family address was his permanent home where he could be contacted.

In response to questions from the legal advisor to the committee, the applicant advised that he was driving a car at the time of his April 2019 caution and that he did not have a passenger with him. In reference to the May 2019 offence with a November 2019 conviction date, the applicant confirmed he was in a car and had no passengers with him. The legal advisor summarised that the applicant had been stopped by the police due to a problem with his car lights in April 2019 and asked why he was stopped in May 2019. The applicant could not recall.

(The applicant and the public protection licensing adviser withdrew from the meeting at this point.)

Members discussed the merits of granting the private hire driver's licence. Committee noted the speeding incident was an isolated event of speeding over three years ago. Members were concerned in relation to the offences in April and May 2019 but noted the emotional triggers for this had now been resolved following the receipt of residency papers and an increase in maturity. Members were concerned over the lack of clarification from the applicant regarding those offences but considered on balance that he passed the fit and proper person test.

It was **RESOLVED** to grant the application.

(The applicant and the public protection licensing adviser were readmitted to the meeting and informed of the subcommittee's decision.)

***4. Application for renewal of a private hire drivers licence: case number 22/00746/PHDRIV**

(The applicant and the public protection licensing adviser were admitted to the meeting.)

The chair introduced members of the committee to the applicant. The committee confirmed the applicant's identity using the applicant's driving licence. The applicant confirmed that he was aware of his right to legal representation but had chosen not to be legally represented. The applicant also confirmed that there were no pending court cases against him and that he had received the committee report.

The public protection licensing adviser presented the report.

Members noted that the address on the application was different to that on the applicant's driving licence. The applicant confirmed that the address on his renewal application was correct and he needed to update the address on his driving licence.

Members asked if the applicant had understood the online application form because it was not completed and he had not disclosed his offence. The applicant advised he had a friend help him but struggled with online forms.

The applicant answered questions from members on the context of the offence detailed in the report of using a vehicle uninsured. The applicant advised that he was test driving his friend's car and considered that he was insured as he had fully comprehensive insurance on his own car. The applicant thought because he had fully comprehensive insurance he was covered as a third party driver to drive his friend's car. The applicant was stopped by the police whilst out on the test drive and was told he was not insured.

The applicant had checked with his insurer and the law had changed and he was required to specifically add in the option to drive other cars as a third party. He emphasised that at the time his understanding was that he was insured. In response to member questions the applicant advised he drove a company vehicle which he rented on a weekly basis and he was covered under his company's insurance. Members wished to see evidence that the applicant was appropriately insured.

In response to member questions the applicant confirmed that he had not read the 'green book', which covered rules for taxi drivers, he advised that if the application to renew his licence was granted then he would read this. In response to a question from the chair the applicant confirmed that he had been a taxi driver since 2016. The chair was concerned that this was a long time to be driving without reading the rules.

The chair queried the applicant's change of name on his renewal application in 2019 and noted he had returned to his former name on this renewal application. The applicant advised that he had returned to using his full name and that he had not used any other names.

(The applicant and the public protection licensing adviser withdrew from the meeting at this point.)

Members discussed the merits of renewing the private hire drivers licence. Committee were concerned that the applicant had not read the green book.

Committee accepted the applicant's explanation as to why the offence had occurred and that it was not a deliberate act but one arising from ignorance of a change in the law. Committee applied its guidelines and noted it was a single incident and the applicant had been driving a long time without any other incident of concern having arisen. Committee felt that on balance the applicant met the fit and proper person test. Committee were concerned to ensure the applicant had appropriate insurance and determined to grant the renewal on the condition that he provide evidence of his insurance to the licensing department within the next seven working days.

It was **RESOLVED** to grant the renewal for the full period on condition that evidence of the applicant's insurance be provided to the licensing department within the next seven working days.

(The applicant and the public protection licensing adviser were readmitted to the meeting and informed of the subcommittee's decision. The applicant was informed of his right to appeal within 21 days of receipt of written notification of the decision.)

CHAIR



Regulatory Subcommittee

14:05 to 15:30

12 December 2022

Present: Councillors Stutely (Chair), Catt, Peek and Schmierer

Apologies Councillor Sands (S)

1. Declarations of Interest

There were no declarations of interest.

2. Exclusion of the public

RESOLVED to exclude the public from the meeting during consideration of item *3 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

***3. Application for the grant of a private hire drivers licence: application ref 22/02037/PHDRIV**

(The applicant and the public protection licensing adviser were admitted to the meeting).

The chair introduced members of the committee to the applicant. The committee confirmed the applicant's identity using the applicant's driving licence. The applicant confirmed that he was aware of his right to legal representation but had chosen not to be. The applicant also confirmed that there were no pending court cases against him. The chair referred to the reference the applicant had brought with him from the taxi company he proposed to work for and advised this had been circulated to members of the committee.

The public protection licensing adviser presented the report.

The applicant answered questions from members in relation to his convictions in April 2021 and provided detail surrounding the circumstances. The chair queried why the applicant had not declared his offences when he sought to make his application. The applicant advised that he mentioned his offences when he submitted his application in person and was advised to complete nil on the form and that a note would be made by the officer receiving the application.

In reference to his offences the applicant detailed the circumstances surrounding these. The chair summarised that the offences related to the applicant taking his

wife to hospital and the applicant confirmed this was the case. The applicant advised that he understood this was not an excuse but did provide mitigation.

He regretted his decision and advised it had had a big financial and psychological impact on his family.

In response to a question as to why he had failed to inform the council of his convictions the applicant advised that he had rung the council several times but could not get through to the licensing department. The applicant had completed the application in person with a licensing officer and was advised to put nil on the form and that a note would be made regarding his convictions. The legal advisor to the committee sought clarity from the applicant as to whether he had advised the council of his offences.

The applicant strongly refuted the claim that he had not declared his offences he countered that it would be illogical not to declare his offences on the form and then to declare in interview. A member noted that the application form was signed the same date as the applicant's interview with the licensing department. The chair asked the licensing advisor if it was possible that the applicant had been advised to complete the form with nil and that a note would be made by the officer on the application. The licensing advisor confirmed that this could be possible.

In response to a member question the applicant advised that he had tried to find different solutions on the date of his convictions to get home but nothing was available. A member asked since the offence how the applicant's behaviour had changed. The applicant became distressed when he referred to the shame he felt at this convictions.

(The meeting was adjourned for a short break at this point)

The chair asked the applicant why committee should make an exception and grant his application. The applicant stressed that he was not driving as a taxi at the time of his conviction, it was in lockdown and there were exceptional circumstances in that his wife had a medical emergency. Apart from the two convictions garnered on the same night he had been driving a long time without any issues.

(The applicant and the public protection licensing adviser withdrew from the meeting at this point.)

Members discussed the merits of granting the private hire drivers licence. Committee accepted the evidence that the offences related to a particular event and were unlikely to be repeated. Committee were concerned to ensure any convictions were declared and agreed to grant the licence on condition that a DVLA and DBS check be completed after 12 months at the applicant's expense.

It was **RESOLVED** to grant the private hire drivers licence for the full period on condition that a DVLA and DBS check are conducted after 12 months at the applicant's expense.

(The applicant and the public protection licensing adviser were readmitted to the meeting and informed of the subcommittee's decision. The applicant was informed of his right to appeal within 21 days of receipt of written notification of the decision.)

CHAIR



Regulatory Subcommittee

14:00 to 16:10

13 February 2023

Present: Councillors Fulton-McAlister (E) (vice chair in the chair), Huntley and Schmierer

Apologies: Councillors Stutely (chair) and Price

1. Declarations of Interest

There were no declarations of interest.

2. Exclusion of the public

RESOLVED to exclude the public from the meeting during consideration of items *3 to 8* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

***3. Suspension/Revocation of a Hackney Carriage Driver's Licence – ref 21/01705/**

(The licensee (applicant) and the public protection licensing adviser (licensing officer) were admitted to the meeting.)

The chair introduced members of the committee, the legal advisor and the council officers to the licensee. The subcommittee confirmed the licensee's identity using the licensee's driving licence. The licensee confirmed that he had received the report and that he was aware of his right to legal representation but had chosen not to be. The licensee also confirmed that there were no pending court cases or convictions against him.

The public protection licensing adviser presented the report.

The licensee answered questions on the circumstances leading to his conviction for using a mobile phone whilst in a taxi rank. He explained that he had been using his mobile phone to take photographs to provide evidence to the county council that the rank was being used illegally by private hire taxi drivers and other drivers, and he did not consider that the police in attendance were taking any action. Only one of the photographs had been taken while the applicant was in his vehicle, which had been stationary in the rank, but he had kept the engine running to keep warm because of the cold weather. (Copies of this photograph and other photographs, taken outside the vehicle, were circulated at the subcommittee.) The licensee had then received a

letter from the police (which was circulated at the meeting) advising him that he had committed an offence. He had received his driving licence in 1983 and was not aware at the time that he had broken the law by using a mobile phone in a stationary vehicle with the engine running.

The licensee also provided information on his previous conviction in for using a mobile phone whilst driving. He said that since then he had been very careful not to break the law as his family relied on his income as a hackney carriage driver.

(The licensee and the public protection licensing adviser withdrew from the meeting at this point.)

Members discussed the merits of renewing the hackney carriage driver's licence. Members considered the *Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades*, paragraph 15, General Traffic Offences, which advised that more than one conviction for this type of offence within the last 5 years should merit refusal. Having heard the licensee's explanation, considered that the subcommittee agreed to deviate from the policy and take no action, but with a warning to the licensee that it would be difficult to deviate from the policy a second time if he committed another offence. The subcommittee appreciated that the licensee had informed the licensing team of the offence. Members were sympathetic to the hackney carriage drivers about the misuse of taxi ranks and would encourage the licensee and colleagues to continue to submit evidence to the county council but to be mindful of the law in doing so.

The subcommittee therefore considered that the licensee was a fit and proper person and to take no further action and to advise the licensee to ensure that his knowledge of the Highway Code was up to date.

RESOLVED to take no further action.

(The licensee and the public protection licensing adviser were readmitted to the meeting and informed of the subcommittee's decision and that he would receive confirmation in writing from the licensing officer. The licensee and public protection licensing adviser then left the meeting.)

***4. Application for the Grant of a Private Hire Driver's Licence –
Application ref 22/02298 PHDRIV**

(The applicant did not attend the meeting at the time requested. The subcommittee agreed to defer consideration of the item to later on the agenda and then when it became apparent that the applicant was not attending took the decision to defer consideration to the next meeting of the subcommittee.)

RESOLVED to defer consideration of this application for the grant of a Private Hire Driver's licence to the next meeting of the subcommittee.

***5. Application for the Grant of a Private Hire Driver's Licence –
Application re 22/02580 PHDRIV**

(The applicant, attended by her partner and the and the public protection licensing adviser (licensing officer) were admitted to the meeting.)

The chair introduced members of the committee, the legal advisor and the council officers to the applicant. The subcommittee confirmed the licensee's identity using the licensee's driving licence. The applicant confirmed that she had received the report and that she was aware of her right to legal representation but had chosen not to be. The licensee also confirmed that there were no pending court cases or convictions against her.

The public protection licensing adviser presented the report.

The applicant explained the circumstances that had led to a conviction in 2015 referred to in paragraph 3 of the report. She explained that she had not realised that it was a conviction. The legal advisor referred to the guidance said that the conviction had expired as 5 years had passed.

The applicant's partner spoke in support of the applicant and said that he had lost his business recently and that they had applied for private hire driver's licences to support their family. The applicant said that if she did not have a private hire driver's licence, she would not be able to use the private hire vehicle, which was their only car, for family use.

(The applicant, her partner and the public protection licensing adviser withdrew from the meeting at this point.)

The subcommittee considered that according to the provision in the *Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades* over five years had passed, and the conviction had therefore expired. Members considered that the conviction had been due to a single one-off set of circumstances and that from what the applicant had told them, considered that the applicant was a fit and proper person to hold a licence.

RESOLVED to grant a private hire driver's licence reference Application ref 22/02580 PHDRIV.

(The applicant, her partner and the public protection licensing adviser were readmitted to the meeting and advised of the subcommittee's decision and that the applicant would receive confirmation in writing from the licensing officer. The applicant and the public protection licensing adviser then left the meeting.)

***6. Application for the Grant of a Private Hire Driver's Licence –
Application ref: 22/022531/PHDRIV**

(The applicant and the and the public protection licensing adviser (licensing officer) were admitted to the meeting.)

The chair introduced members of the committee, the legal advisor and the council officers to the applicant. The subcommittee confirmed the licensee's identity using the licensee's driving licence. The applicant confirmed that he had received the report and that he was aware of his right to legal representation but had chosen not to be. The licensee also confirmed that there were no pending court cases or convictions against him.

The public protection licensing adviser presented the report.

The applicant explained the circumstances that had led to the convictions for offences as set out in paragraph 3 of the report. He confirmed that he had obtained false identification in an attempt to obtain a national insurance number in order to be able to work. The applicant said that he had moved on from this and now had a family with young children and worked as a carer.

(The licensee and the public protection licensing adviser withdrew from the meeting at this point.)

The subcommittee considered that the applicant was a fit and proper person to hold a licence and no risk to the safety of the public. Members considered that from what the applicant had told them he understood the issues that had led to the isolated incident leading to his convictions in 2015. The subcommittee recommended that the applicant read the Green Book thoroughly.

RESOLVED to grant a private hire driver's licence reference Application ref: 22/022531/PHDRIV.

(The applicant and the public protection licensing adviser were readmitted to the meeting and advised of the subcommittee's decision and that the applicant would receive confirmation in writing from the licensing officer. The applicant was advised to read the Green Book. The applicant and the licensing protection adviser then left the meeting.)

(The licensing protection adviser was readmitted to the meeting.)

***7. Immediate Revocation Private Hire Driver's licence no 22/00295 PHDRIV**

The licensing protection adviser reported on the immediate revocation of a private hire driver's licence (ref 22/00295 PH DRIV) under delegated powers, following an alleged assault of a passenger caught on CCTV. The licensee surrendered his badge the same day and had subsequently returned his licence plate, which had alleviated concerns that he was using his private hire vehicle. The incident had been raised with the police.

RESOLVED to note the verbal report.

***8. Immediate Revocation Hackney Carriage Driver's licence no 22/01584 HACKD**

The licensing protection adviser reported on the immediate revocation of a hackney carriage driver's licence (ref 22/00295 PHDRIV) under delegated powers to suspend a driver who had been arrested and bailed for drink driving on 12 January 2023. Enforcement officers had served the notice but despite taking all practical steps were unable to contact the licensee to surrender his badge and licence plate. This was ongoing and the police were also aware. There was concern that this driver would continue to work despite the immediate revocation.

During discussion members suggested that the Chair of the Norwich Hackney Trade Association should be informed to look out for this driver.

RESOLVED to note the verbal report and to ask the public protection adviser to notify the chair of the Norwich Hackney Trade Association of the situation.

CHAIR



Regulatory Subcommittee

14:00 to 14:30

13 March 2023

Present: Councillors Stutely (chair), Catt, Grahame and Kidman

Apologies: Councillor Peek

1. Declarations of Interest

There were no declarations of interest.

2. Exclusion of the public

RESOLVED to exclude the public from the meeting during consideration of item *3 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

***3. Application for the Grant of a Private Hire Driver's Licence –
Application re 22/02298/PHDRIV**

(The applicant and the public protection licensing adviser (licensing officer) were admitted to the meeting.)

The chair introduced members of the committee, the legal advisor and the council officers to the applicant. The subcommittee confirmed the applicant's identity using the applicant's driving licence. The applicant confirmed that there were no pending court cases or convictions against him.

The public protection licensing adviser presented the report.

The applicant explained, and answered members' questions on, the circumstances that had led to the two convictions, one in 2001 and one in 2004, referred to in paragraph 3 of the report. He confirmed that since the convictions he had turned his life around and had not had any further issues in the past 18 years. He regretted the convictions and made changes to ensure that anything similar never happened again, which included breaking off contact with the individuals involved in the 2001 conviction.

(The applicant and the public protection licensing adviser withdrew from the meeting at this point.)

The subcommittee considered that, due to the length of time that had elapsed since the convictions and that there were no further issues, he was a fit and proper person to hold a licence. Members considered that the applicant was remorseful of the convictions and had made changes to his life.

RESOLVED, unanimously, to:-

- 1) Grant a private hire driver's licence reference Application ref 22/02298/PHDRIV;
- 2) Ask officers to provide a physical copy of the Green Book; and
- 3) Remind the applicant that all convictions, however minor, must be reported to the licensing authority within 7 days.

(The applicant, and the public protection licensing adviser were readmitted to the meeting and advised of the subcommittee's decision and that the applicant would receive confirmation in writing from the licensing officer.)

CHAIR

