

Licensing committee

Date: **Tuesday, 18 December 2018**
Time: **16:30**
Venue: **Westwick room, City Hall, St Peters Street, Norwich, NR2 1NH**

Committee members:

Councillors:

Malik (chair)
Ackroyd
Bradford
Brociek-Coulton
Fullman
Fulton-McAlister (E)
Henderson
Huntley
Maxwell
Price
Ryan
Stewart
Thomas (Va)

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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

Agenda

1 Apologies

To receive apologies for absence.

2 Public questions/petitions

To receive questions / petitions from the public.

Please note that all questions must be received by the committee officer detailed on the front of the agenda by **10am on 10am Thursday 13 December 2018.**

Petitions must be received by the committee officer detailed on the front of the agenda by **10am on Monday 17 December 2018.**

For guidance on submitting public questions or petitions please see appendix 1 of the council's constitution.

3 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).

4 Minutes

5 - 8

To approve the accuracy of the minutes of the meeting held on 6 September 2018.

5 Licensing policy, cumulative impact - verbal update

To receive an update from the environmental protection, licensing and markets manager.

6 Gambling Statement of Principles

9 - 76

Purpose - That members consider the consultation process for the attached draft statement of principles in respect of gambling, under the Gambling Act 2005.

7 Sex establishment policy

77 - 126

Purpose - That members consider whether to set a specific limit on numbers for sex establishments in the agreed localities for the draft

sex establishment policy and to authorise the head of citywide services to consult on any agreed draft policy.

8 Standing item - regulatory subcommittee minutes 127 - 138

To receive the minutes of the regulatory subcommittees held on 17 September, 8 October and 12 November 2018.

***9 Exclusion of the public**

Consideration of exclusion of the public.

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: **Monday, 10 December 2018**

Licensing committee**16:30 to 18:25****6 September 2018**

Present: Councillors Malik (chair), Fulton-McAlister (E) (vice chair), Brociek-Fullman, Huntley, Maxwell, Price, Raby (sub for Henderson), Ryan, Stewart and Thomas (Va)

Apologies: Councillors Ackroyd, Bradford and Henderson

1. Appointment of vice chair

RESOLVED to appoint Councillor Fulton-McAlister (E) as vice-chair for the ensuing civic year.

2. Public questions/ petitions

There were no public questions or petitions received.

3. Declarations of interest

There were no declarations of interest.

4. Minutes

The committee officer agreed to provide an update to the next meeting on holding an all member's briefing on the effects of super strength alcohol.

RESOLVED to:

- (1) ask the committee officer to provide an update on the resolution made at licensing committee on 21 March 2018 to organise a member's briefing on the effects of super strength alcohol to the all members briefing schedule; and
- (2) approve the accuracy of the minutes of the meeting held on 21 March 2018 and 4 April 2018.

5. Sex Establishment Policy

The environmental protection, licensing and markets manager presented the report. He noted the following amendments to the draft sex establishment policy statement incorporated as appendix B to the report:

- 1) On agenda page 51, the third paragraph, the penultimate sentence after the words Licensing Act 2003 the following to be added:

‘which relate to nudity, striptease and similar’

- 2) On agenda page 51, the last sentence would change to read:

‘In considering and granting such authorisations the Authority will have regard to the Authority’s statement of Licensing Policy.’

- 3) On agenda page 52, the sixth paragraph to add on the end of the sentence the following:

‘except when received by the by the council electronically’.

- 4) On agenda page 53, the sixth paragraph to delete the word ‘online from the first sentence. The last paragraph to delete the words ‘in the city’.

- 5) On agenda page 54, the first bullet point after the word vicinity to add:

‘are put; or to the layout, character or condition’

- 6) On agenda page 54, the fourth paragraph to change the wording to:

‘The Authority will not consider objections which relate to moral grounds (as these are outside the scope of the Act). Where objections are rejected, the objector will be given written reasons.’

- 7) On agenda page 55, on the first set of bullet points, the list of matters that the Authority will have regard to when considering applications, add an extra bullet point to read:

‘and any other relevant legislation or guidance’

- 8) On agenda page 56, on the fifth paragraph to add after the word locality:

‘Or any other discretionary ground of refusal’

- 9) On agenda page 57, to amend grounds for refusal c to read:

‘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’.

- 10) On agenda page 58, on the seventh paragraph to add after the words deceased licence-holder:

‘and that no other circumstances make it undesirable’.

- 11) On agenda page 58, the last paragraph, in the first sentence after the word application which appeared twice in the sentence add the words:

‘or holder’

12) On agenda page 59, the second bullet point was amended to read:

‘that 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’.

Members discussed any further amendments which might be required to the sex establishment policy. A member referred to the list of bodies on page 55 of the agenda, organisations which the authority would take account of comments made in response to Sex Establishment applications received. The legal advisor to the committee advised that the authority was obliged to consider any relevant representations whether an organisation was listed specifically in the policy or not.

In response to a member question the environmental protection, licensing and markets manager said that children’s services were advised of applications via the Norfolk Safeguarding Children Board (NSCB). Members agreed this should be added to the list on agenda page 55 to ensure that it was clear the NSCB were notified of applications made. No further amendments were noted.

The environmental protection, licensing and markets manager said that the committee at its meeting on 8 September 2017 had agreed two relevant localities for Sexual Entertainment Venues (SEVs); the ‘city centre leisure area’ and the ‘late night activity zone’. These were used as the localities in the draft Sex Establishment Policy. He noted that there was a sex shop on St Augustine’s Street which was not inside either of the localities as they were currently constituted. To incorporate this, the draft policy referred to a further locality ‘city council area outside of the city centre leisure area’ in which the shop was situated.

The draft policy set the maximum number of Sex Establishments in each locality to reflect the number of establishments which were currently located in each locality as indicated in the table below:

Locality	number
Late Night Activity Zone	3
City Centre Leisure Area (outside of the LNAZ)	1
City Council area outside of the City Centre Leisure Area	1

He said members could consider changing this number and the geography of the localities as part of the process of reviewing the policy. A possible option would be to extend the city centre leisure area to include St Augustine’s Street.

The report included maps of the locality areas, including details of locations of schools, public houses, community centres, schools, sheltered housing schemes, health centres and parks. Members noted that Sir Isaac Newton Sixth Form and Norwich School were not on the maps and that the symbols for the sheltered housing schemes were smaller than that for pubs and it was therefore hard to appreciate the scale of some of the shelters housing schemes.

(Cllr Maxwell left the meeting at this point)

Members discussed the setting of numbers within the relevant localities. The environmental protection, licensing and markets manager explained that sex shops, sex establishments and sex cinemas could be separated out and numbers for each in each locality set separately. The cap on numbers set in each relevant locality would be included in the policy which would be in place for three years. Some members expressed concern that a restriction on numbers could increase the value of a Sexual Establishment licence or drive unlicensed activity underground.

The vice chair asked if officers could conduct research and look at similar cities and their Sex Establishment Policies for comparative data in order for the committee to make an informed decision. A member suggested the comparison could be made with the CIPFA (Chartered Institute of Public Finance and Accounting) statistical near neighbours, cities which were similar in size and demographic composition as Norwich.

This data should include; the rationale behind limits set in relevant authorities, any unforeseen consequences which had results as a consequence of setting a limit on numbers, the perspective of police in these areas in terms of the impact on crime and anti-social behaviour.

(Cllr Brociek-Coulton left the meeting at this point)

RESOLVED to:

- 1) ask the environmental protection, licensing and markets manager to add the Norfolk Safeguarding Children Board to the list of bodies advised of sex establishment applications as listed on page 55 of the policy;
- 2) extend the city centre leisure area to include St Augustine's Street from the junction of Pitt Street to the junction of Esdelle Street with the boundary placed through the centre of the street;
- 3) defer consideration of the draft policy in respect of sex establishments; and
- 4) ask the environmental protection, licensing and markets manager to conduct research on relevant cities which had set a maximum number of sex establishments in localities to provide context to the committee's decision.

6. Standing item – Regulatory subcommittee minutes

RESOLVED to receive the minutes of the regulatory subcommittee meetings held on 14 May, 11 June, 9 July and 13 August 2018.

CHAIR

Report to Licensing committee
18 December 2018
Report of Head of citywide services
Subject Gambling Statement of Principles

Item
6

Purpose

That members consider the consultation process for the attached draft statement of principles in respect of gambling, under the Gambling Act 2005.

Recommendation

To authorise the head of citywide services to consult on the draft statement of principles in respect of gambling.

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

Consultation costs to be met from existing budget.

Ward/s: All wards

Cabinet member: Councillor Maguire – Safe city environment

Contact officers

Tony Shearman, environmental protection, licensing and markets manager

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Background documents

None

Report

Background

1. The Council is the licensing authority for the purposes of the Gambling Act 2005, which requires the Council to prepare a Statement of Gambling Principles that it proposes to apply in exercising its functions under the Act.
2. The Statement of Principles sets out the general approach the Council will take when carrying out its regulatory role under the Act and promoting the three licensing objectives:
 - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
 - ensuring that gambling is conducted in a fair and open way
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
3. The Act specifies that Local Authorities should “aim to permit” gambling, provided it is in accordance with the Code of Practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with the Statement of Principles. The effect of this duty is that Licensing Authorities must approach their functions in a way that seeks to regulate gambling by using their powers to promote the licensing objectives rather than by starting out to prevent it altogether.
4. The current Statement was adopted by the council in November 2006, and published in January 2007, its available online [here](#).
5. The draft Policy does not include a Local Area Profile which will be produced as a stand alone document. This local area profile document is in the process of being produced.
6. From April 2016, all industry operators have had to undertake local area risk assessments to explore what risks gambling venues pose to the licensing objectives, including the protection of young and vulnerable people. The Local Area Profile will act as a guide which gambling operators can use when undertaking and preparing their local premises risk assessments.

Consultation

7. Consultation is critical to ensure any changes to the Statement of Principles are clear and transparent for businesses, responsible authorities and the public.
8. The legislation specifies those persons and groups that the Council has a duty to consult with.
9. If the Committee approves the proposed Statement of Principles, we will follow our consultation standards over a 8 week period to ensure we consult with all the statutory consultees and will be:
 - Writing to the chief officer of police

- Publicising the consultation on the Council's website
- Writing to or emailing the responsible authorities listed in Appendix 1 of the Statement of Principles
- Writing to or emailing bodies that are either people representing the interests of persons carrying on gambling businesses or persons who may be affected, as listed in para. 2.12 of the proposed document.

10. We will then analyse the comments, prepare any changes considered appropriate to the Statement of Principles for final approval and present a further report to the Licensing Committee before recommendation to Full Council for formal adoption of the policy.

Legal Implications

11. Section 349(1) of the Gambling Act 2005 requires the Council, as licensing authority, to prepare and publish a statement of principles to cover each successive period of three years. Section 349(2) requires the Council to review the statement from time to time, revise the statement if thought necessary as a result of the review and publish the revision before giving effect to it.

12. In preparing the statement, the Council must consult the following people for its area:

- The chief officer of police
- People representing the interests of persons carrying on gambling businesses
- Persons who represent the interests of persons who are likely to be affected by the Council exercising its functions under the Act

13. Before a statement or revision comes into effect, the regulations require licensing authorities to publish a notice of their intention to publish a statement or revision. The notice must:

- specify the date on which the statement or revision is to be published
- specify the date on which the statement or revision will come into effect
- specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected
- be published on the authority's website and in/on one or more of the following places for at least four weeks before it comes into effect:
 - a local newspaper circulating in the area covered by the statement
 - a local newsletter, circular, or similar document circulating in the area covered by the statement
 - a public notice board in or near the principal office of the authority
 - a public notice board on the premises of public libraries in the area covered by the statement.

14. Upon recommendation from the Licensing Committee, the revised Statement of Principles will be presented for approval at Full Council.

Conclusion

16. The Act requires the Council to review its Statement of Gambling Principles every 3 years and requires that we consult on the proposed statement of principles. A review of the Statement has been completed.
17. Following consultation, a further report will be presented to the Licensing Committee requesting a recommendation to adopt the Statement of Principles at Full Council.



NORWICH
City Council

Gambling Act 2005

Statement of Principles (Gambling Policy)

2018

Approved by Norwich City Council ?????

To be published by ?????

Coming into force on ?????

Contents

Part A - General		
1.	The licensing objectives	4
2.	Introduction	5
3.	Declaration	10
4.	Responsible Authorities	10
5.	Interested Parties	11
6.	Information Exchange	14
7.	Enforcement	15
8.	Licensing Authority functions	17
Part B - Premises Licences		
9.	General Principles	19
10.	Adult Gaming Centres	29
11.	(Licensed) Family Entertainment Centres	29
12.	Casinos	30
13.	Bingo	31
14.	Betting premises	32
15.	Tracks	34
16.	Travelling fairs	37
17.	Provisional Statements	38
18.	Reviews	39
Part C - Permits/Temporary and Occasional Use Notices		
19.	Unlicensed Family Entertainment Centre gaming machine permits	40
20.	(Alcohol) Licensed premises gaming machine permits	43
21.	Prize Gaming Permits	44
22.	Club Gaming and Club Machines Permits	46

.....

23.	Temporary Use Notices	47
24.	Occasional Use Notices	49
25.	Lotteries	49
Part D - Exempt Gaming		
6.		52
Part E - Committee, Officer Delegation and Contacts		
7.	Committee decisions and scheme of delegation	53
8.	Contacts	54
Appendices		
	Appendix 1 Responsible Authority Contact Details	55
	Appendix 2 Table of Delegations	57
	Appendix 3 Summary of Gambling Entitlements	59

All references to the Commission's Guidance for local authorities refer to the guidance published in *Guidance to Licensing Authorities 5th edition September 2015 with Parts 17, 18 & 19 updated September 2016*. This is accessible via the Commission's website.

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>

Part A - General

1. The Gambling Licensing Objectives

1.1 In exercising most of its functions under the Gambling Act, 2005 (“the Act”), Licensing Authorities must have regard to the licensing objectives set out in section 1 of the Act. The three licensing objectives are:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**
- **Ensuring that gambling is carried out in a fair and open way**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

It is noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

The City Council as Licensing Authority takes these objectives seriously and is committed to protecting all vulnerable people of whatever age from being harmed or exploited by gambling.

1.2 This Licensing Authority is aware that, in accordance with Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Commission
- in accordance with any relevant guidance issued by the Commission
- reasonably consistent with the licensing objectives and
- in accordance with the Authority’s statement of licensing policy

2. Introduction

- 2.1 Licensing authorities are required by the Act to publish a statement of the principles which it proposes to apply when exercising its functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. Following any amendment and consultation, the revised statement will then be re-published.
- 2.2 Norwich City Council as Licensing Authority (referred to in this document as “This Licensing Authority”) published its first Statement of Principles (generally referred to as the Councils Gambling Policy) in December 2006 following statutory consultation. The Gambling Policy has been published every three years since.
- 2.3 In preparing this (2018) version of the Statement of Principles (Gambling Policy) – this Licensing Authority has undertaken a significant revision and amendment to take account of various issues. In recent particular recent changes brought about by the Commission, changes to the law and updated current practices.
- 2.4 The Gambling Commission (“the Commission”) has introduced new provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This change in national policy is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.
- The risk assessment will be premises specific and highlight factors relevant and related to the local area (ward) in which the premises are situated or proposed.

- 2.5 The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. This movement towards increased partnership working is something that Norfolk authorities have been doing for a number of years. We have found that a risk-based approach to regulation enables the authority to prioritise resources where they are most needed and can be most effective.
- 2.6 The risk based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.
- 2.7 This licensing authority is working with other licensing authorities across Norfolk to develop guidance to assist gambling operators in undertaking and preparing their local (premises) risk assessments. This guidance (to be published as a separate document) will provide a framework for the local risk assessment process that will provide a uniform approach across all non-remote gambling sectors. This will benefit the Council as Licensing Authority under the Act, as well as responsible authorities and interested parties when considering new and variation applications. The local risk assessments will also enable this licensing authority to establish a more progressive compliance inspection regime.
- 2.8 Gambling operators are required to undertake a risk assessment for all of their existing premises in April 2016. Following that date

operators must also undertake a review of those assessments when certain triggers are met. These triggers, along with this licensing authority's views on what would instigate either a new assessment or the review of an existing one will be detailed within the guidance document.

2.9 This licensing authority considers that these local risk assessments are a key component of the overall assessment and management of the local risks. This authority will assist operators in this process by providing specific information on its concerns surrounding gambling within the City and the impact that premises can have on the licensing objectives. This will be contained within the Statement of Licensing Principles (Gambling Policy) as detailed below.

2.10 This local risk assessment process is not the same as other forms of risk assessment undertaken by gambling operators, such as Health and Safety at Work, Fire Safety and Food Hygiene, etc. These local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

Consultation process on the Statement of Principles (Gambling Policy)

2.11 The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the

exercise of the authority's functions under the Gambling Act 2005.

2.12 Before finalising and publishing **its original** statement Norwich City Council has consulted with the persons contained in the list below.

- Norfolk Constabulary;
- Existing permit/licence holders
- Trade Organisations
- Gamblers Anon
- GamCare
- Associated addiction/welfare bodies
- Citizens Advice Bureau
- Residents Groups
- Norfolk County Council
- Church Organisations
- Local Planning Authority
- Environmental Health
- Norwich Primary Care Trust
- Relevant Residents Associations
- Relevant Trades Unions

2.13 **Further consultation with these bodies will be undertaken on this updated 2018 draft version of the statement of principles (Gambling Policy) prior to an updated statement being adopted.**

2.14 It should be noted that this statement of principles will not override the right of any person to make an application, make representations about an application or apply for the review of a licence as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

Local Area profile

2.15 A detailed local area profile has been prepared based on local knowledge and taking into account a wide range of factors, data and information held by the licensing authority and its partners. It is anticipated that the local area profile will give operators a better awareness of the local area and the risks, which includes both potential and actual risks. The local area profile document can be accessed via the council's website.

2.16 In summary the area is as follows:

Norwich City Council is situated in the County of Norfolk, which contains 7 District Councils in total. The City Council area has a population of 141,000 (2016 midyear estimate) making it the third largest in the County in terms of population. In terms of area it is the smallest, covering 15 square miles. The Council area is entirely urban. This is shown in the map attached.

Figure 1 Map of Norwich City Council area showing the city centre and key suburbs



3. Declaration

3.1 In producing this **Statement of Principles (Gambling Policy)** this Licensing Authority declares that it has had regard to

- the licensing objectives of the Gambling Act 2005,
- the guidance issued by the Commission to licensing authorities (5th edition September 2015 with Parts 17, 18 & 19 updated September 2016) referred to in this document as “Commission’s Guidance” and
- any responses from those consulted on the Statement of Principles (Gambling Policy).

4. Responsible Authorities

4.1 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are

- The need for the body to be responsible for an area covering the whole of the Licensing Authority’s area
- The need for the body to be answerable to democratically elected persons rather than any particular vested interest group.

In accordance with the Commission’s Guidance, this Authority designates the Norfolk Safeguarding Children’s Board for this purpose.

4.2 The contact details of all the Responsible Authorities under the Act for this licensing authority area are attached at Appendix 1

4.3 In seeking to achieve its aim to safeguard all vulnerable persons of whatever age, the City Council as Licensing Authority will work with the Norfolk Safeguarding Adults Board and seek input from Norfolk County Council Adult services and the Norfolk and Suffolk NHS Foundation Trust in respect of mental health services. Whilst such agencies are not responsible authorities as defined in the Act, this

Licensing Authority will treat representations from such agencies as if they were representations from Responsible Authorities.

5. Interested parties

5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as persons who:

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) have business interests that might be affected by the authorised activities, or
- c) represent persons who satisfy paragraph (a) or (b)

5.2 This Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits.
- This authority will not apply a rigid rule in making its decision; however, it will consider the examples provided in part 8 of the Commission's Guidance. (reproduced in figure 2 below) The authority will also consider the Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Figure 2 Examples contained in part 8 of the
Commission Guidance on determining whether
someone is an interested party.

People living close to the premises

8.12 There are a number of factors that licensing authorities should take into account when determining whether a person 'lives sufficiently close to the premises'. These might include:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises.

8.13 Relevant factors will depend on the particular application. For example, it is reasonable for a licensing authority to consider that living sufficiently close to premises to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

The nature and scope of business interests that could be affected

8.14 It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain.

But that is unlikely to be enough to satisfy the test of being 'a person with business interests that might be

affected by the premises' under consideration.

For example, an operator in a particular sector be it casino, bingo, betting etc, should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. Specifically, licensing authorities are reminded that the 'demand test' from previous gambling legislation does not apply under the Act.

8.15 The licensing authority should be satisfied that the relevant business is likely to be affected. Factors that are likely to be relevant include:

- the size of the premises
- the 'catchment' area of the premises, that is, how far people travel to visit the premises
- whether the person making the representation has business interests in that catchment area that might be affected.
- People representing those in the above categories

8.16 Interested parties can be people who are democratically elected such as councillors and MPs, as persons representing individuals in the other categories. This would include county, parish and town councillors. Other representatives might include bodies such as trade associations and trade unions, and residents' and tenants' associations. A school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.

8.17 Save for democratically elected persons, licensing authorities should satisfy themselves on a case by case basis that a person does represent interested parties, and request written evidence where necessary. A letter from the interested person(s) they are representing would be sufficient.

- 5.3 Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the Councillor / MP represents the ward likely to be affected. Other than these however, the Authority will generally require written evidence that a person/body (for example an advocate or relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.4 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Authority's licensing team (contact details, page 55).

6. Information exchange

- 6.1 In fulfilling its functions and obligations under section 29 (Licensing Authorities providing information to the Commission), section 30 (the provision of information by the Commission) and section 350 (exchange of information may be subject to conditions) of the Act the Licensing Authority may exchange relevant information with other regulatory bodies. In exchanging such information, the Licensing Authority will conform to the requirements of data protection and freedom of information legislation in accordance with the Council's existing policies.
- 6.2 The Licensing Authority will also have regard to any Guidance issued by the Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

- 6.3 Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

7. Enforcement

- 7.1 Licensing authorities are required by regulation under the Act to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

- 7.2 This Licensing Authority's **principles** are that it will be guided by the Commission's Guidance and will endeavour to be:

- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
- **Consistent:** rules and standards must be joined up and implemented fairly;
- **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
- **Targeted:** regulation should be focused on the problem, and minimise side effects.

- 7.3 In accordance with the Commission's Guidance this Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

- 7.4 This Licensing Authority's main enforcement and compliance role in terms of the Act will be to ensure compliance with the premises licences and other permissions that it authorises. The Commission is the enforcement body for Operating and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but should be notified to the Commission.
- 7.5 The Councils enforcement policy will be followed in respect of any compliance monitoring and enforcement action taken in concerning gambling activities under the licensing authority's enforcement jurisdiction. This is accessible via the council's website.
- 7.6 Enforcement inspections- This licensing authority has adopted and implemented a risk-based enforcement approach to inspections, based on;
- The licensing objectives
 - Relevant codes of practice
 - Guidance issued by the Commission, in particular at Part 36
 - The principles set out in this statement of licensing policy
- 7.7 As well as sanctions available under the Act this licensing authority will seek to use all appropriate powers available to it.
- 7.8 Where there is a Primary Authority scheme in place, this licensing authority will seek guidance from the Primary Authority before taking any enforcement action. At the time of drafting this document (May 2018) there were six Primary Authority arrangements with host local authorities:

Milton Keynes Council	Ladbrokes/Corals (with NIS)
Milton Keynes Council	Welcome Break
Reading Council	Paddy Power
Reading Council	BACTA

Reading Council	ABB
Reading Council	William Hill

7.9 This licensing authority will work together the Commission to identify and investigate organised or persistent illegal activity.

7.10 Fees for certain gambling permits and licensing transactions are set nationally by statute. They include

- Unlicensed Family Entertainment Centre Gaming Machine Permits
- Registration of Small Society Lottery (including an annual maintenance fee)
- Club Gaming Permits
- Club Gaming Machine Permits
- Alcohol Licensed Premises Gaming Machine Permits
- Prize Gaming Permit

However, fees for licences issued under the Act by this licensing authority are set by this licensing authority in accordance with statutory provisions. This licensing authority has sought to set fees at a level to cover the costs of undertaking the administration of the gambling licensing function. Fees are approved each year by the Full Council and are published on the Councils website

8. Licensing Authority functions

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements

- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that this Licensing Authority will not be involved in licensing remote gambling at all. This will fall to the Commission via operating licences.

Part B - Premises Licences

9. General Principles

9.1 Premises licences will be subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

9.2 In accordance with Section 153 of the Act, this Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Commission;
- in accordance with any relevant guidance issued by the Commission ;
- reasonably consistent with the licensing objectives; and
- in accordance with the Authority's Statement of Principles (Gambling Policy).

9.3 It is appreciated that as per the Commission's Guidance "moral and ethical objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a licensing authority.¹

¹ UNMET DEMAND - The Licensing Authority should not consider whether there are enough gambling outlets within a given area to fulfil customer's needs, wants and expectations.

9.4 ***Appropriate Licensing Environment*** - This licensing authority also notes Commission guidance on this subject (previously known as primary gambling activity). It is not permissible for an operator to offer gaming machines on a premises which is licensed for non-remote betting but not to offer sufficient facilities for non-remote betting. A non-remote betting operating licence authorises its holder to ‘provide facilities for betting’ (s.65(2)(c) of the Act). Likewise, a betting premises licence authorises premises to be used for ‘the provision of facilities for betting...’ (s.150(1)(e) of the Act). The ability to make up to four gaming machines, within categories B2 – D, available is an additional authorisation conferred upon the holder of a betting premises licence (s.172(8) of the Act); it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.

9.5 This authority notes the Commission’s view that it is also important, in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises. Accordingly, an operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome and collect any winnings.

- 9.3 **Definition of 'premises'** - Premises is defined in the Act as 'any place'. Different premises licences cannot apply in respect of a single premise at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 9.4 This Licensing Authority takes particular note of the Commission Guidance which states that Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
- 9.5 The Licensing Authority will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Specific issues for consideration would be whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. Additionally, an overriding consideration would be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that would otherwise be prohibited under the Act.

- 9.6 It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. Therefore a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This Licensing Authority agrees with the Commission Guidance that it is a question of fact whether premises are finished to a degree that they can be considered for a premises licence. The Commission Guidance emphasises that requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights
- 9.7 **Location** - This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. In accordance with the Commission Guidance, this Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon in respect of areas where gambling premises should not be located, this statement will be updated to reflect that. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus on the applicant to show how potential concerns can be overcome
- 9.8 When determining an application to grant a Premises Licence or review a Premises Licence, careful consideration will be taken regarding the proximity of the premises to:

- a) schools, and other educational establishments

- b) vulnerable adult centres
- c) residential areas where there may be a high concentration of families with children
- d) premises licensed under the Licensing Act 2003
- e) premises licensed under the Local Government (Miscellaneous Provisions) Act 1976
- f)

The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

- 9.9 ***Duplication with other regulatory regimes*** - This Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems wherever possible. This Authority will not consider whether a licence application is likely to obtain planning or building regulation consent, in its consideration of it. It will however listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 9.10 ***Licensing objectives*** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Commission's Guidance and some comments are made below.
- A. **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This Licensing Authority is aware that the Commission will be taking a leading role in preventing gambling from being a source of

crime. The Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors or CCTV. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

B. Ensuring that gambling is conducted in a fair and open way –

This Licensing Authority has noted that the Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence).

Both of these options fall under the remit of the Commission.

However, in relation to the licensing of tracks this Licensing Authority's role will be different from other premises in that track operators will not necessarily have an operating licence. Tracks are defined in section 353 of the Act to mean horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place. In these circumstances, the Premises Licence may need to contain certain conditions to ensure that the environment in which betting takes place is suitable and that betting areas are properly administered (see **Tracks** – Page 31).

- C. **Protecting children and other vulnerable persons from being harmed or exploited by gambling** – This Licensing Authority has noted the Commission's Guidance states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children).

As stated previously, this Licensing Authority when considering this objective, will seek to protect all vulnerable persons whatever their age and take into account advertising accordingly.

This Licensing Authority will therefore consider, as suggested in the Commission Guidance, whether specific measures are required at a particular premises, with regard to his licensing objective. Appropriate measures may include such matters as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises.

The Licensing Authority will also make itself aware of any Codes of Practice issued by the Commission concerning this licensing objective in relation to specific premises, such as casinos.

Regarding the term “vulnerable persons” it is noted that the Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case by case basis.

- 9.11 **Conditions** - Any conditions attached to licences will be proportionate and will be

.....

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

9.12 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines and appropriate signage for adult only areas. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

9.13 This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's Guidance.

9.14 This Licensing Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical

barrier which is effective to prevent access other than through a designated entrance;

- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

9.16 This Licensing Authority is aware that tracks may be subject to one, or more than one, Premises Licence, provided each licence relates to a specified area of the track. In accordance with the Commission's Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

9.17 It is noted that there are conditions which the Licensing Authority cannot attach to premises licences. These are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition (Operating Licences are issued by the Gambling Commission);
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Act specifically removes the membership

requirement for casino and bingo clubs and this provision prevents it being reinstated); and

- conditions in relation to stakes, fees, winning or prizes.

- 9.18 **Door Supervisors** - The Commission advises in its Guidance that Licensing Authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 9.19 Where it is decided that supervision of entrances and/or machines is appropriate for particular cases a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be. licensed as the statutory requirements for different types of premises vary (as per the Guidance)

It should be noted that there is a specific exemption from SIA registration for those persons directly employed by the operator of a bingo club or casino. Therefore, only third party contract staff are required to be SIA registered for such premises

10. Adult Gaming Centres

- 10.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

11. (Licensed) Family Entertainment Centres

- 11.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 11.2 This Licensing Authority will refer to the Commission's website to view any conditions that apply to Operator Licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these Premises Licences, when they have been published.

12. Casinos

- 12.1 There are currently no casino premises in Norwich
- 12.2 On the 15th March 2006 the Council's Executive considered whether to submit a proposal to the Casino Advisory Panel to be permitted to

have a large or small a casino in Norwich. Members resolved not to submit a proposal.

- 12.3 **No casinos resolution** – This Licensing Authority has not passed a ‘no casino’ resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

13. Bingo premises

- 13.1 This Licensing Authority notes that the Commission’s Guidance states

“ 18.5 Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.”

- 13.2 This authority also notes that from 13 July 2011 a holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. A licence variation must be applied for if operators wish to take advantage of the change to the legislation.

- 13.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that *‘licensees must ensure that their policies and procedures take account of the structure and*

layout of their gambling premises' in order to prevent underage gambling". In considering applications for bingo premises licences this authority will take account of these points.

- 13.4 **Bingo in clubs and alcohol licensed premises** - Bingo is a class of equal chance gaming permitted on alcohol-licensed premises, and in clubs and miners welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. There are regulations setting controls on this form of gaming, to ensure that it remains low stakes and prizes activity. Where the level of bingo played in these premises reaches a certain threshold, it will no longer be authorised by these rules and a bingo operating licence will have to be obtained from the Commission for future bingo games. The aim of these provisions is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.

The threshold is that if bingo played during any seven-day period exceeds £2,000 (either money taken or prizes awarded), all further games of bingo played on those premises in the next 12 months will require an operating licence to be legal. The Commission has developed a statutory code of practice (The Code of Practice for gaming in clubs and premises with an alcohol licence) which is available on its website.

14. Betting premises

- 14.1 The Act contains a single class of licence for betting premises although within this, there are different types of premises which require licensing.

The Act also permits betting intermediaries to operate from premises. Section 13 of the Act defines a betting intermediary as a person who provides a service designed to facilitate the making or acceptance of bets between others. Although betting intermediaries usually offer their services via remote communication, such as the internet, a betting

intermediary can apply for a betting premises licence to offer intermediary services upon the premises, such as a premises based trading room.

- 14.2 Licensing authorities are responsible for issuing and monitoring premises licences for all betting premises. The issuing of premises licences is discussed in Part 7 of the Commission Guidance.

A betting operating licence authorises the holder to 'provide facilities for betting' and a betting premises licence authorises premises to be used for the 'provision of facilities for betting'. Thus, the primary gambling activity of the premises should be betting with gaming machines as an ancillary offer on the premises.

- 14.3 **Gaming machines** - Section 172(8) provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines. (Appendix 3 below summarises current machine entitlements)

- 14.4 **Self Service Betting Terminals (SSBTs)** - Section 235(2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

However, where a machine is made available to take bets on virtual races (that is, results and / or images generated by computer to resemble races or other events) that machine is a gaming machine and counts towards the maximum permitted number of gaming

machines, and must meet the relevant category limitations for the premises.

This Licensing Authority notes it is the Commission's view that the use of SSBTs is a form of remote communication and that a remote licence will be required if SSBTs are used to facilitate the making or accepting of bets by others.

This authority also notes that section 181 of the Act contains an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence (or to a casino premises licence where betting is permitted in the casino).

15. Tracks

- 15.1 This Licensing Authority is aware that tracks (as defined in section 353 of the Act) may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. In accordance with the Commission's Guidance, this Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 15.2 This Licensing Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

15.3 **Gaming machines** - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, the machines (other than category D machines) should be located in areas from which children are excluded

15.4 **Betting machines** - This Licensing Authority will, in accordance with the Commission's Guidance, take into account the size of the premises, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

15.5 **Condition on rules being displayed** - The Commission has advised in its Guidance that:

“...Licensing Authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”

- 15.5 **Applications and plans** - The Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track.

This Licensing authority will need to satisfy themselves that the plan submitted provides sufficient information to enable them to assess the application.

16. Travelling Fairs

- 16.1 Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Current stakes and prizes can be found in the Commission guidance.

Higher stake category B and C fruit machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

This Licensing Authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

- 16.2 This Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 16.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

17. Provisional Statements

17.1 Section 204 of the Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

17.2 Once the premises are constructed, altered or acquired the holder of a provisional statement can apply to the Licensing Authority for the necessary Premises Licence. Section 205 of the Act sets out how the Authority should consider this application.

17.3 The Licensing Authority notes the Commission Guidance which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully”.

17.4 In terms of representations about Premises Licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, the authority may refuse the Premises Licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or

- (b) which is in the authority's opinion reflect a change in the operator's circumstances.

17.5 The authority has noted the Commission's Guidance that "A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

18. Reviews

18.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause the Licensing Authority to consider whether to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review:

- in accordance with any relevant code of practice issued by the Commission;
- in accordance with any relevant guidance issued by the Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

18.2 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

Part C: Permits/Temporary & Occasional Use Notice

19. Unlicensed Family Entertainment Centre (FEC) gaming machine permits

(Statement of Principles on Permits – Gambling Act 2005 Schedule 10 paragraph 7)

19.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

19.2 The Act states that a Licensing Authority may prepare a statement of principles that it proposes to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission. The Commission's Guidance also states:

“In its policy statement, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises is likely to appeal particularly to children and young persons, licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group.”

19.3 This authority notes that the Commission Guidance also states:

“...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes.”

19.4 It is noted that this licensing authority cannot attach conditions to this type of permit.

19.5 **Statement of Principles** - This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This Licensing Authority will also expect, in accordance with the Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

19.6 This Licensing Authority will require the following to be submitted in addition to the application form and fee:

- (1) Proof of the applicant's identity and age;
- (2) Proof of the applicant's right to occupy the premises for which the permit is sought;
- (3) (Where the applicant is an individual) a 'basic' Criminal Records disclosure dated no earlier than one calendar month on the day the application is received by the Licensing Authority. Holders of operating licences issued by the Commission are exempt from this requirement.
- (4) An insurance certificate (or certified copy) confirming the availability of public liability insurance covering the proposed activity.
- (5) A plan scale 1:100 of the premises showing:
 - a. The boundary of the premises including any internal and external walls, entrances, exits, doorways and windows, and indicating the points of access available to the public.
 - b. The location of any fixed or temporary structures.
 - c. The location of any counters, booths, offices or other locations from which staff may monitor the activities of persons on the premises.
 - d. The location of any public toilets within the boundary of the premises.
 - e. The location of CCTV cameras.
 - f. The location of any ATM or other cash/change machines.
 - g. The proposed location of the Category 'D' machines.
 - h. Details of non-category 'D' machines (e.g. skill with prizes machines).

20. (Alcohol) Licensed Premises Gaming Machine Permits - (Gambling Act 2005 Schedule 13 paragraph 4(1))

20.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. This licensing authority is aware it can remove the automatic authorisation in respect of any particular premises if it is satisfied that:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

20.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Commission under Section 25 of the Act, and “*such matters as they think relevant.*” This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures

to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

- 20.3 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 20.4 This licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached to a permit.
- 20.5 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

21. Prize Gaming Permits - (Statement of Principles on Permits – Gambling Act 2005 Schedule 14 paragraph 8 (3))

- 21.1 The Act states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

21.2 This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law.
- clear policies that outline the steps to be taken to protect children from harm.

21.3 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Commission Guidance.

21.4 It should be noted that there are conditions in the Act by which the permit holder must comply, but that the Licensing Authority cannot attach conditions.

The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

22. Club Gaming and Club Machines Permits

- 22.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations.

Members clubs and miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). N.B. Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

- 22.2 This Licensing Authority notes that the Commission's Guidance states:

"25.44 The Local Authority has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit." In doing so it will take into account a number of matters as outlined in the Commission Guidance. These include the constitution of the club, the frequency of gaming and ensuring that there are more than 25 members.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

- 22.3 The Commission Guidance also notes that licensing authorities may only refuse an application on the grounds that:

- (a) (i) for a club gaming permit the applicant is not a members' or miners' welfare institute

- (II) for a club machine permit the applicant is not a members' or miners' welfare institute or commercial club
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 22.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Commission's Guidance states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

22.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

23. Temporary Use Notices

23.1 Temporary use notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a gambling operator

wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a TUN, according the Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a TUN to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

- 23.2 The Secretary of State has the power to determine what form of gambling can be authorised by TUN, and the relevant regulations - The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 - state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 23.3 There are a number of statutory limits as regards TUNs. Commission Guidance is noted that "the meaning of 'premises' in part 8 of the Act is discussed in Part 7 of this guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.
- 23.4 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Commission's Guidance.

24. Occasional Use Notices

- 24.1 Section 39 of the Act provides that where there is betting on a track on eight days or fewer in a calendar year, betting may be permitted by an occasional use notice (OUN) without the need for a full premises licence.

The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

25. Small Society Lotteries

- 25.1 Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:
- by, or on behalf of, a charity or for charitable purposes
 - to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact the Licensing Authority for further advice.

- 25.2 This Licensing Authority will register and administer smaller (non-commercial) society lotteries and applicants for lottery licences must apply to the Licensing Authority in the area where their principal office is located.
- 25.3 The society in question must be 'non-commercial' and the total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all their lotteries

in a calendar year must not exceed £250,000. If the operator plans to exceed either of these values then they may need to be licensed with the Commission to operate large lotteries instead.

- 25.4 For initial applications and where there is a change of promoter, this licensing authority reserves the right to require the promoter of the lottery to produce a 'basic' criminal records disclosure. For new applications, the licensing authority shall require the promoter of the lottery to produce a 'basic' Criminal Records disclosure dated no earlier than one calendar month on the day the application is received by the Authority.
- 25.5 This Licensing Authority may refuse an application for registration if in their opinion:
- The applicant is not a non-commercial society;
 - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
 - Information provided in or with the application for registration is false or misleading.
- 25.6 Where this Licensing Authority intends to refuse registration by a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply evidence on which it has reached that preliminary conclusion. In any event, the Authority will make clear its procedures on how it handles representations.
- 25.7 This Licensing Authority may revoke the registered status of a lottery if it thinks that they would have had to, or would be entitled to; refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

25.8 This Licensing Authority will adopt a risk based approach towards enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

DRAFT 28.9.18

Part D - Exempt Gaming

- 26.1 Exempt gaming is equal chance gaming generally permissible in any club or alcohol-licensed premises. Gaming should be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 26.2 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 26.3 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different, higher stakes and prizes are allowed for exempt gaming in clubs than in alcohol-licensed premises. Current limits are summarised in appendix 3 below.

Part E - Committee, Officer Delegation and Contacts

27 Committee decisions and scheme of delegation

- 27.1 This Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 27.2 Licensing Sub-Committees made up of three Councillors from the main Licensing Committee will sit to hear applications where relevant representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.
- 27.3 Where a Councillor who is a member of the Licensing Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.
- 27.4 The Authority's authorised Licensing Officers will deal with all other licensing applications where either no relevant representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 27.5 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by the Authority's authorised Licensing Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Committee or Sub-Committee. Where representations are rejected,

the person making that representation will be given written reason as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

27.6 The table shown at Appendix 2 sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers. (It is derived from the details specified in section 154 of the Act and the Norwich City Council Constitution)

27.7 This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

28. Contacts

28.1 Further information about the Gambling Act 2005, this Statement of Licensing Policy or the application process can be obtained from:-

The Licensing Team Norwich City Council City Hall, St Peter's Street, Norwich NR2 1NH	Phone: 01603 212761 / 212760. Email: licensing@norwich.gov.uk Website: www.norwich.gov.uk/info/20014/licensing
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Information is also available from:-

The Gambling Commission 4th floor, Victoria Square House, Victoria Square, Birmingham, B2 4BP	Phone: 0121 230 6666 Fax: 0121 230 6720 Email: info@gamblingcommission.gov.uk Website: www.gamblingcommission.gov.uk
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Appendix 1

Responsible Authority Contact Details

The Gambling Commission

4th floor Victoria Square House
Victoria Square
Birmingham
B2 4BP
Email: info@gamblingcommission.gov.uk

The Chief Officer of Police

Chief Constable
C/O Licensing Section
Central Area Headquarters
Norfolk Constabulary
Norwich Police Station
Bethel Street
Norwich
NR2 1NN

The Fire Authority

Norfolk Fire Safety Department
Carrow Fire Station
63 Bracondale
Norwich NR1 2EE

Health and Safety

Food and Safety Team
Norwich City Council
City Hall
St Peter's Street
Norwich
NR2 1NH

HM Revenue and Customs

National Registration Unit Betting & Gaming
Portcullis House
21 India Street
Glasgow
G2 4PZ
Email: NRUBetting&Gaming@HMRC.gsi.gov.uk

Planning Authority

Head of Planning
Norwich City Council
City Hall
St Peter's Street
Norwich
NR2 1NH

Child Protection

Norfolk Safeguarding Children Board,
Room 60 Lower Ground Floor
County Hall
Martineau Lane
Norwich
NR1 2UG

<http://www.nscb.norfolk.gov.uk/Contacts.asp>

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Appendix 2

Table of delegations

Matter to be dealt with	Full Council	Committee or Sub-committee	Officers
Final approval of three year licensing policy	All cases		
Policy not to permit casinos	All cases		
Fee setting (when appropriate)		As appropriate	All cases
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission

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Matter to be dealt with	Full Council	Sub-committee	Officers
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		All cases	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		All cases	
Applications for other permits			All cases
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	

Appendix 3

Summary of Gambling Entitlements (as at 1.4.2018)

Summary of machine provisions by premises

Premises type	Machine category
Pre-2005 Act casino	Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead
Betting premises and tracks occupied by pool betting	Maximum of 4 machines categories B2 to D (except B3A machines)
Bingo premises ¹	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4
	No limit on category C or D machines
Adult gaming centre ²	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4
	No limit on category C or D machines
Licensed family entertainment centre ³	No limit on category C or D machines
Family entertainment centre (with permit) ³	No limit on category D machines
Clubs or miners' welfare institute (with permits) ⁴	Maximum of 3 machines in categories B3A or B4 to D
Qualifying alcohol-licensed premises	1 or 2 machines of category C or D automatic upon notification
Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)	Number of category C-D machines as specified on permit
Travelling fair	No limit on category D machines

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¹ **Bingo premises licence** are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. [The Gambling Act 2005 (Gaming Machines in Bingo Premises) Order 2009]. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

² **Adult gaming centres** are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

³ Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.

⁴ **Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit**, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.

⁵ **Commercial clubs with club machine or gaming permits** are entitled to a total of three machines in categories B4 to D.

Summary of gaming machine categories and entitlements

Category of machine	Maximum stake (from Jan 2014)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of max £20,000 linked progressive jackpot on premises basis only

Stakes and prizes for gaming machines are likely to change from time to time. For up to date details consult the Gambling Commission website:

<http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Arcades-and-machines/Gaming-machine-categories/Gaming-machine-categories.aspx>

Summary of gaming entitlements for clubs and alcohol licensed premises

	Members' club or MW institute with club gaming permit	Clubs established to provide facilities for gaming of a prescribed kind (currently bridge or whist clubs)	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit or club machine permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or Whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	Poker £1000 / week £250 / day £10 / person per game Other gaming No limit	Poker £1000 / week £250 / day £10 / person per game Other gaming No limit	Poker £100 / premises per day Other gaming £5 / person per game Cribbage & dominoes No limit
Limits on prizes	No limit	No limit	Poker £250 / game Other gaming No limit	Poker £250 / game Other gaming No limit	Poker £100 / game Other gaming No limit
Max participation fees – per person per day	Bridge /whist* £20 Other gaming £3	£18 (without club gaming permit) £20 (with club gaming permit)	Bridge/ Whist* £18 Other gaming £3 commercial club £1 members' club	Bridge/ Whist* £18 Other gaming £1	None permitted

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	Members' club or MW institute with club gaming permit	Clubs established to provide facilities for gaming of a prescribed kind (currently bridge or whist clubs)	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit or club machine permit	Pubs and other alcohol-licensed premises
Bankers/unequal chance gaming	Pontoon <i>Chemin de fer</i>	None permitted	None permitted	None permitted	None permitted
Limits on bingo **	Maximum of £2,000 / week in stakes or prizes.	No bingo permitted	Maximum of £2,000 / week in stakes or prizes.	Maximum of £2,000 / week in stakes or prizes.	Maximum of £2,000 / week in stakes or prizes.

* On a day when no other facilities for gaming are provided.

** If more than the maximum, then an operating licence will be required.

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Report to Licensing committee
18 December 2018
Report of Head of citywide services
Subject Sex Establishment Policy

Item
7

Purpose

That members consider whether to set a specific limit on numbers for sex establishments in the agreed localities for the draft sex establishment policy and to authorise the head of citywide services to consult on any agreed draft policy.

Recommendation

To:

- 1) determine whether to include a specific limit on numbers of sex establishments for the agreed localities in the draft policy;
- 2) determine whether to separate out the different categories of sex establishment within localities and to determine an appropriate number of sex establishments of a particular kind;
- 3) authorise the head of citywide services to consult on the draft policy in respect of sex establishments.

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

Consultation costs to be met from existing budget.

Ward/s: All wards

Cabinet member: Councillor Maguire – Safe city environment

Contact officers

Tony Shearman, environmental protection, licensing and markets manager

01603 212278

Background documents

None

Report

1. At the meeting of the committee on 11 December 2014, members considered the results of a public consultation on a proposed Sex Establishment Policy.
2. At this meeting members subsequently resolved to adopt the proposed policy.
3. At a subsequent meeting on 8 September 2017, where members determined licence applications for four sexual entertainment venues made under this policy, members expressed a wish to consider an updated policy which included maximum numbers of licensed premises in relevant localities.
4. At a meeting of the Licensing Committee on the 6 September 2018 members considered an updated draft policy and agreed some amendments. The agreed amended draft policy is attached at Appendix A.
5. One of the discretionary grounds for the refusal of an application for a sex establishment licence is on the basis of whether a predetermined appropriate number of licensed premises has already been reached. Further details on the wording of this aspect are included in the paragraphs below.
6. At the meeting on 6 September 2018 members considered the question of whether the draft policy should include appropriate numbers of the various types of sex establishment, but no conclusion was reached.
7. Officers were directed to conduct benchmarking research with other local authorities on the aspect of setting appropriate numbers of sex establishments. The results of this research are attached at Appendix B.

Grounds for Refusal of Applications

8. An application will be refused on the following mandatory grounds:
 - i. if the applicant is under 18,
 - ii. if the applicant has a disqualification following the revocation of their licence,
 - iii. to a person, other than a body corporate, who is not resident in an EEA State,
 - iv. to a body corporate not incorporated in an EEA state,
 - v. or a previous refusal of the applicant at the same premises in the previous 12 months.
9. There are also a number of discretionary grounds. These are:
 - i. if the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason,
 - ii. if the business would be managed by or for the benefit of a third party who would be refused a licence in their own right
 - iii. That the number of sex establishments in the relevant locality or of sex establishments of a particular kind in the relevant locality equals or exceeds the number considered appropriate for that locality.
 - iv. Is inappropriate having regard to:
 - o Character of relevant locality

- Use of premises in vicinity
- Layout, character or condition of the premises in respect of which the application is made.

Relevant Locality

10. Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put, or the layout, character or condition of the premises. Nil may be the appropriate number.
11. Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:
 - (a) in relation to premises, it is the locality where they are situated; and
 - (b) in relation to a vehicle, vessel or stall, it is any locality where it is desired to use it as a sex establishment.
12. Whilst the council has decided upon the extent of the relevant localities government guidance on SEV applications still requires consideration of the facts of an individual application regarding this point.
13. Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.
14. When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding that two sex establishments 200 miles away from one another were in the same locality. Case law also indicates that a relevant locality cannot be an entire local authority area or an entire town or city.
15. Once the authority has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

16. Local authorities may determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.
17. In determining the applications heard in September 2017, members considered the question of relevant locality for the four sexual entertainment venues.
18. Three of the application premises were located in Prince-of-Wales Road, and members considered that their relevant locality was best represented by the Late Night Activity Zone, an area defined in planning policy.
19. One of the application premises was located in Dove Street (close to the Guildhall), and members considered that the relevant locality was best represented by the City Centre Leisure Area, another area defined in planning policy.
20. At the meeting on 6 September 2018 members redefined the relevant locality of the City Centre Leisure Area, to include St Augustine's Street from the junction of Pitt Street to the junction of Esdelle Street with the boundary placed through the centre of the street, such that the area now incorporates the existing licensed sex shop.
21. The current and proposed policy states that - In considering the characteristics of a locality the Licensing Authority shall particularly take account of the density and proximity of:
 - (1) schools, nurseries, crèches, youth hostels and other similar educational or recreational facilities attended by children,
 - (2) parks and children's play areas,
 - (3) residential and sheltered accommodation,
 - (4) religious and community buildings,
 - (5) alcohol or entertainment licensed premises,
 - (6) other retail units (and their uses)
22. Maps containing details of the planning areas mentioned above, are attached at appendix C.
23. Since the grant of the original four sexual entertainment venue licenses in September 2017, only three applied to renew the licence in September 2018. Therefore the current licensed sex establishment premises are:-
 - i) Sugar and Spice, 39 Prince of Wales Road – SEV
 - ii) Pure Gold, 52 Prince-of-Wales Road – SEV
 - iii) Platinum Lace, 15 Dove Street – SEV
 - iv) The Private Shop, 39 St Augustines Street – sex shop

Consultation

24. It is proposed that consultation on the proposed policy takes place with:
 - 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

Conclusions

25. Having decided to adopt the provisions of the Act, the Council can adopt a policy relating to the application and determination of applications for lap dancing clubs, sex shops and sex cinemas
26. The Government has provided local authorities with a way of controlling the number and location of sex establishments in their area. It has also given the Council a wide discretion in deciding the policy relating to sex establishments.
27. Consultation on the attached draft policy should take place and any revisions be brought back for members to consider before a policy is finalised.



NORWICH
City Council

Local Government (Miscellaneous Provisions) Act 1982

Statement of Licensing Policy

for

SEX ESTABLISHMENTS

**Incorporating Guidance and
Standard Conditions**

Approved by Licensing Committee???
Adopted by Full Council??

Statement of Licensing Policy for Sex Establishments

Contents

1	Introduction	3
2	Policy development and consultation details	4
3	Types of Sex Establishment and definitions	4
4	Location of Licensed Premises	5
5	Application Process	6
6	Consultation procedures and Commenting on licence applications	7
7	Determination of applications	9
8	Conditions	11
9	Refusal of licences	11
10	Revocation of licence	12
11	Cancellation of licences	12
12	Right to appeal a decision	12
13	Compliance Monitoring and enforcement	13
14	Exchange of Information	13
15	Policy Evaluation and review	13
Glossary, Definitions and Bibliography		15
Appendix		
A	Notice of Application for The Grant / Renewal / Transfer of a Sex Establishment Licence	19
B	Standard Sex Establishment Licence Conditions Restrictions and Terms applicable to Sex Shops and Sex Cinemas	20
C	Standard Sex Establishment Licence Conditions Restrictions and Terms applicable to Mail-Order Premises	25
D	Standard Sex Establishment Licence Conditions Restrictions and Terms applicable to Sexual Entertainment Venue Premises	29

1. Introduction

This policy has been drafted following new legislative provisions introduced by 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 all existing and future 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, procedure and principles for the benefit of the Authority, the community, applicants and other relevant organisations.

Due to the requirement that each application must be considered on its own merits, although the Licensing Committee must have regard to this policy as part of their decision making process they are not rigidly bound by it. Should the Licensing Committee choose to depart from this policy, 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 which forms 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.

Notwithstanding matters contained within this policy document, consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for Sex Establishment licences.

The Authority does not take a moral stance through the adoption of this policy. We recognise that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as 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 to take all reasonable steps to reduce crime and disorder within the City;
- the Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- the Provision of Services Regulations 2009 to ensure requirements are:
 - (i) non-discriminatory
 - (ii) justified by an overriding reason relating to the public interest
 - (iii) proportionate to that public interest objective
 - (iv) clear and unambiguous
 - (v) objective
 - (vi) made public in advance, and
 - (vii) transparent and accessible.

The Authority consulted on this policy ???? ?

It was approved by the Licensing Committee on ???? and adopted by Full Council on ???? ?

3. Types of Sex Establishment and definitions

There are 3 types of sex establishments (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 apply to the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

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

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

The Authority recognises that not all premises which provide Adult entertainment facilities automatically require a Sex Establishment licence.

Statement of Licensing Policy for Sex Establishments

This is due to certain provisions and exemptions within the legislation as detailed below.

Applications can be made to waive the requirement for a sex establishment licence. However, the Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence except in extreme circumstances which will be considered by the Authority's Licensing Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).

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. 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

4. Location of Licensed Premises

The Authority acknowledges that a concentration of licensed premises in a particular area can result in a potential 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 the Authority will take account of 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 the number which we consider appropriate for that locality. This number can be 'nil'.

In recognising that different parts of the City have different characteristics the Authority has imposed a limit on the number of premises that may be licensed in a given area, and will treat each application upon its own merits. The Authority considers the maximum numbers should be:

Locality	number
Late Night Activity Zone	tbc3
City Centre Leisure Area (outside of the LNAZ)	tbc4

City Council area outside of the City Centre Leisure Area	tbc1
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The Authority expects that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

5. Application Process

Applicants should be aware that planning is a separate jurisdiction to licensing. Potential licence applicants should ensure that appropriate planning permission is in place prior to submission of an application for a licence.

Premises may require to hold a Licence under the Act as a Sex Establishment and also a separate licence 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:

- By post/personal service to:
The Licensing Team, Norwich City Council, City Hall, St Peter's Street,
Norwich NR2 1NH
- Via Email: licensing@norwich.gov.uk
- Online:
https://www.norwich.gov.uk/directory_record/1186/sex_shops_and_cinemas/category/108/sex_shops_and_cinemas

The application must be copied by the applicant to the Police within 7 days after the date the application was made, except when received by the council electronically.

Applicants must provide their name, address and (where the applicant is an individual) their age, plus the premises address and the proposed licensed name of the premises.

Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Authority before the premises are opened for business in order to ensure that exterior design of the premises shall be such 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 Sexual Entertainment Venues such plan must outline 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

Statement of Licensing Policy for Sex Establishments

shall include matters containing conditions of licence, i.e. no touching, no meeting customers outside of the licensed premises for any purpose, no sex acts, no giving or taking phone 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 acceptance to adhere to the House Rules. Such documentation must be retained for the duration of the performers' 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 to establish whether there are any characteristics of the locality which may require consideration by the Licensing Committee.

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 within 7 days of making the application.

If the application relates to a premises then there is an additional requirement for notice of the application to be displayed for 21 days 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 contain certain information. The Authority's prescribed notice is contained within this policy document as Appendix A.

Please note that with regard to ~~online~~ applications tacit authorisation does not apply to new grant applications for sex establishment licences. This means applicants must wait for the Authority to determine their application before they can operate a sex establishment.

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.

If an application is for the renewal of a sex establishment licence, the premises can continue to operate past the licence expiry date; provided that the renewal application has been submitted to the Authority before the licence expires.

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.

6. Consultation procedures and Commenting on licence applications

The police are a statutory consultee for all applications.

Residents and businesses ~~in the City~~ may also make objections during the consultation process.

Statement of Licensing Policy for Sex Establishments

Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the Act. The grounds relevant to the majority of objectors are as follows:

- that 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 or vessel or stall in respect of which the application is made.

Any objections received by the Authority which do not relate to the grounds set out in the Act will be deemed invalid and must be rejected by the licensing team. Where objections are rejected, the objector will be given written reasons.

In addition to individuals, objectors can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Councillors may represent interested parties, providing they do not also sit on the Licensing Committee.

The Authority will not consider objections that ~~are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the Act). Decisions on whether objections are frivolous or vexatious will be made objectively by the Authority's authorised officers and not on the basis of any political judgement.~~ Where objections are rejected, the objector will be given written reasons.

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

Valid objections will be considered by the Licensing Committee at the hearing to consider the application and applicants will be given an opportunity to present their application to members.

The Authority has a procedure to be followed during licensing hearings. Persons who have made a valid and relevant representation in respect of an application will be able to address the Committee when the application is being considered and may also ask questions of the applicant. A time limit per speaker may be set. Where a number of persons have requested to speak the Chair of the Committee may require a spokesperson to be elected.

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

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

Statement of Licensing Policy for Sex Establishments

Any Petitions received must clearly state the name and address of the premises application being objected to. The full objection that people are signing to say they agree with must be at the top of the petition. The objection must be in line with the requirements of the legislation (as detailed above). 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 were aware what they were signing for; so in the interest of clarity for those signing best practice would be to have the objection at the top of each page, especially where several people are involved in collecting signatures. The Committee will decide on the merits of the case what weight it will give to objections raised through petitions.

It should be noted that submissions to the Licensing Authority may also be in support of an application. These should also contain the same information as stated above.

The names and address of objectors will not be disclosed to applicants, or published in public reports, in accordance with Paragraph 10 (17) of Schedule 3 to the Act.

Details of applications and objections which are referred to the Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Certain items or information will therefore have to be excluded from the public domain as permitted by 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 objections made
- the Human Rights Act 1998
- any other relevant legislation 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 objections 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 made by:

- 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

Statement of Licensing Policy for Sex Establishments

- Any other relevant authority

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

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 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 an EEA state;
- (e) to a person who had, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

Applications which fall into this category will be deemed invalid applications. Please note there is no right of appeal against failure to grant a licence on these grounds.

If the application is valid and no objections have been received and there are no other statutory grounds for refusal, the application will be granted by way of delegated authority.

In cases where objections have been received, or if there are concerns regarding the characteristics of the locality, or any other discretionary ground of refusal, the application will be referred to the Licensing Committee for a hearing and determination of the application.

The Authority may, if they think fit, transfer a licence to any other person upon application by that person.

Each application will be decided upon its own merits. The Licensing Authority will not apply a rigid rule to its decision making.

The Authority will give clear reasons for its decisions.

The Authority will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of one year to provide certainty to those operating businesses. The licence will remain in force for one year, or such shorter period specified in the licence, unless previously cancelled or revoked.

When issuing a Sex Establishment Licence the Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued. In addition to this the Licensing Authority has the power to make standard conditions applicable to all licences for sex establishments. The Authority

may grant to any applicant or renew any licence for the use of any premises as a sex establishment on such terms and conditions as may be specified.

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 may be added in the following circumstances:

- When offered by the applicant as part of the application;
- Voluntary following recommendations made by any relevant Authority, Police etc;
- By the Licensing Committee following receipt of an objection 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 a fine not exceeding £20,000.

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 Licensing Committee.

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 and these will be deemed invalid applications.

In accordance with Paragraph 12(2) 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 he made the application him/her self;
- c. That the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the~~that the~~ application is

determined, made 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;
- 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 is given jurisdiction to 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 Licensing Committee. They may call a hearing, without requiring a third party to request such a hearing, and give the licence holder an opportunity to appear before them.

Should the Authority revoke a Sex Establishment licence then full reasons for the revocation will be provided to the licence holder within 7 days of the decision.

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. However, this does not prevent the licence holder from holding a licence in another Licensing Authority's area.

11. Cancellation of licences

The licence-holder may surrender the licence at any time and may request the Authority in writing to 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.

12. Right to appeal a decision

Statement of Licensing Policy for Sex Establishments

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 the local 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 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 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
- that 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, considering the character of the area, the nature of other premises in the area, or the premises themselves.

The Magistrates' court will determine the appeal application. Applicants who do not agree with the decision made by the magistrates' court, can appeal to the local Crown court. The decision made by the Crown court will be final. The Authority must comply with a decision made by the Magistrates or Crown court.

13. Compliance Monitoring and enforcement

The Authority will adopt an intelligence led and risk based approach to its a monitoring and inspection regime. In general this will involve carrying out inspections of premises no more than once a year unless exceptional circumstances require otherwise.

It is further recognised that Sexual Entertainment Venues are also regulated by other legislation due to the nature of those operations, and therefore may require more frequent inspection. However, it is anticipated that, wherever possible, consolidated enforcement inspections will be undertaken.

The Authority's approach to enforcement is set out in enforcement policies which are available on request.

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

Statement of Licensing Policy for Sex Establishments

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

The 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 stated cases, local needs and economic impacts.

This Policy will be reviewed on a 5-yearly basis. Any proposed amendments to the Policy will be fully consulted upon, prior to re-adoption by the Authority.

DRAFT

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

Statement of Licensing Policy for Sex Establishments

(b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.

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

- (a) if they are licensed under Section 1 of the Cinemas Act 1985, of their use or purpose for which a licence under that section is required; or
- (b) of their use for an exhibition to which Section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of that Act.

Sexual Entertainment Venue

“2A (1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

(2) In this paragraph “relevant entertainment” means—

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

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

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

(a) sex cinemas and sex shops;

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

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

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

(4) – (12) *omitted as they refer to other matters*

Statement of Licensing Policy for Sex Establishments

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

(14) In this paragraph—

“audience” includes an audience of one;

“display of nudity” means—

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

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

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

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted; and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

Significant Degree & Sex Articles

Licences for sex shops are required where 18R rated films are being sold, or where there is a “significant degree” of “sex articles”. It should be noted that in respect of Mail Order premises the Video Recordings Act 1984 states at section 7 (b) & (c) that no video recording that may only be viewed by persons aged 18 or over is to be supplied other than in a licensed sex shop. Case law precludes the sale of 18R rated films by Mail Order premises which holds a Sex Shop licence because the supply of the film to a person aged 18 or over cannot be confirmed; such supply would fail to ensure that the age controls are properly enforced.

The phrase “sex articles” is defined in the Act, but the phrase “a significant degree” is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, the Authority will consider:

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

Relevant entertainment

Licences for sexual entertainment venues are required for “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.

“Relevant entertainment” is defined in schedule 3 of the Act (as amended by section 27 of the Policing and Crime Act 2009) as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).” An audience can consist of just one person, e.g. in a private booth.

Nudity

Section 27 of The Policing and Crime Act 2009 defines the “display of nudity” as:-

- (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.

Form of Notice – Indecent Displays (Control) Act 1981 section 1(4)(e):

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.”
http://www.licensingresource.co.uk/sites/all/files/sex/sev_guidance.pdf
- Home Office guidance issued under section 182 of the Licensing Act 2003 in April 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

APPENDIX A

**NOTICE OF APPLICATION FOR THE GRANT / 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.

Proposed Licensed
Name.....

Address of
premises.....
.....
.....
.....

Proposed hours of opening/operation
.....
.....
.....
.....

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" and proposed opening hours, or hours of operation in the case of Mail Order Premises.
2. Affix a copy of the completed Notice on the premises to which the application relates, in a prominent position that may be easily read by the public on the day of making application.
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 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.

Management of the Premises

4. The Licensee, or a responsible person over the age of 18 having been nominated by him and approved in writing by the Council for the purpose of managing the sex establishment ("the manager"), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.

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. A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the Premises so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.

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.

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

Statement of Licensing Policy for Sex Establishments

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 provided for customers.

10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment 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 an employee.

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 available for inspection by the police and by authorised officers of the Council.

13. The Licensee shall take all reasonable precautions for the safety of the public, employees and other persons working in the premises.

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

15. The Licensee shall adopt a procedure to check the age of customers entering the shop who appear to be younger than 25 in order to ensure that they are not under the age of 18.

16. All persons working in the premises shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of persons working in the premises including adequate identity checks.

17. The Licensee shall ensure that a closed-circuit television system is installed internally and externally to the satisfaction of the Norfolk Constabulary. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.

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

Opening of the Premises

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 except during the following hours:

Statement of Licensing Policy for Sex Establishments

Monday – Saturday 9:30 am – 6:00 pm

20. 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

21. 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.

22. 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 sex cinema or a sexual entertainment venue.

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

External Appearance

24. 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 proof of age may be requested.

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

26. 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.

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

28. 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.

Statement of Licensing Policy for Sex Establishments

- (iii) A notice stating the opening hours of the establishment.
- (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.

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

In the case of the permitted items at paragraph 24 'i', 'ii' and 'iv' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.

- 30. (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 approved by the Council in writing;
- (b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

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

32. 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.

33. 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.

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

35. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

36. Alterations or additions, 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.

37. 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.*)

38. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment 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.

Statement of Licensing Policy for Sex Establishments

Goods Available in Sex Establishments

39. 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.

40. 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 Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).

41. 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 the effect.

42. In accordance with section 7 (b) & (c) of the Video Recordings Act 1984 and case law no 18R rated films may be sold or supplied by Mail Order.
Information for Customers

43. The Licensee shall make available in the Sex Establishment 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 should be displayed in a prominent position, preferably adjacent to all points of sale in the Sex Establishment.

Licensed Name

44. (a) The Council at the time of granting the licence in respect of the premises shall appoint 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 name shall have been provided on the application form.

(b) An application in respect of a change of licence 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 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 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.

Management of the Premises

4. The Licensee, or a responsible person over the age of 18 having been nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.

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. 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. A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the Premises so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.

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.

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

Statement of Licensing Policy for Sex Establishments

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 adequate records of the names, addresses and dates of birth of persons working in the premises including adequate identity checks.

11. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment 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 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 available for inspection by the police and by authorised officers of the Council.

13 The Licensee shall take all reasonable precautions for the safety of employees.

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

Operation of the Premises

15. 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.

16. 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 Mail order sex shop premises.

17. The sex establishment shall be used exclusively for 'mail-order' purposes only, selling sex articles and other articles that do not fall within the definition of sex articles in Schedule 3, paragraph 4(3) of the Local Government (Miscellaneous Provisions) Act 1982.

18. All advertisements, catalogues, sales documents used in connection with the business intended or likely to be seen by customers will clearly and prominently state

Statement of Licensing Policy for Sex Establishments

"MAIL ORDER ONLY". All deliveries/despatches of parcels shall be in plain wrapping not identifying what is inside.

External Appearance

19. No external nameplate, advertisement board or any other written or 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.

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

21. 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.

22. 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

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

24. 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.

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

26. Alterations or additions, 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

27. 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 the effect.

28. In accordance with section 7 (b) & (c) of the Video Recordings Act 1984 and case law no 18R rated films may be sold or supplied by Mail Order premises (even one which holds a Sex Shop licence).

Licensed Name

Statement of Licensing Policy for Sex Establishments

29. (a) The Council at the time of granting the licence in respect of the premises shall appoint 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 name shall have been provided on the application form. Paragraph 16 of these conditions applies.
- (b) An application in respect of a change of licence 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.

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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.

Management of the Premises

4. The Licensee, or a responsible person over the age of 18 having been nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
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. A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the Premises so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
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.
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.

Statement of Licensing Policy for Sex Establishments

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 provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment 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 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 available for inspection by the police and by authorised officers of the Council.
12. The Licensee shall take all reasonable precautions for the safety of the public, employees and other persons working in the premises.
13. 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 that conditions of licence are complied with, in particular the no touching conditions, and to ensure the safety of performers.
14. No person under the age of 18 shall be admitted to the Premises.
15. The Licensee shall adopt a procedure to check the age of customers entering the premises who appear to be younger than 25 in order to ensure that they are not under the age of 18.
16. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
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 complied with. Furthermore they 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 a closed-circuit television system is installed internally and externally to the satisfaction of the Norfolk Constabulary. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
19. CCTV recordings will be made available for viewing by authorised Officers of the licensing authority or the police. Copies of such recordings must be kept for a period of 31 days and be provided upon request.

Statement of Licensing Policy for Sex Establishments

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 the grounds of public safety, 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 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 may only be provided during the hours permitted by an authorisation under the Licensing Act 2003 unless a specific condition on the Sex Establishment Licence permits otherwise.

Operation of the Premises

27. 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.

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 or a sex cinema.

External Appearance

Statement of Licensing Policy for Sex Establishments

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. The notice must also include a statement that proof of age may be requested.

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 establishment.

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

In the case of the permitted items at paragraph 34 'i', 'ii' and 'iii' 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

Statement of Licensing Policy for Sex Establishments

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

38. 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. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

42. Alterations or additions, either internal or external, or any proposed amendments to licence conditions shall not be made to the premises 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 Licensing 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 a SIA registered door supervisor, or a member of staff who has direct contact with SIA registered door supervisors working on the premises at all times the booths/cubicles/VIP areas are in use. Direct supervision does not include remote supervision by CCTV.

Provision of Relevant Entertainment

45. Live music or the playing of recorded music, which is integral to the provision of relevant entertainment, will be subject to the same conditions contained in any authorisation under the Licensing Act 2003 in respect of live or recorded music. The only exception to this is where a specific condition on the licence requires otherwise.

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

Statement of Licensing Policy for Sex Establishments

47. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
48. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as being where relevant entertainment may be provided.
49. At the conclusion of performances all articles of clothing removed during that performance must be put back on. This does not prevent performers going to their non-public changing area to change their attire.
50. Performers may not accept any telephone number, email address, address or contact information from any customer.
51. Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.
52. Performers must not perform a nude table dance unless in a supervised area.
53. 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).
54. 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.
55. 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 absolutely accidentally or due to 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.

Statement of Licensing Policy for Sex Establishments

56. 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 sexual entertainment.
- (2) Customers must remain appropriately clothed at all times.

57. 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 worn by females or an armband worn by males.
- SIA door staff in the execution of their duties.

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

59. Notices outlining condition 57 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.

60. Performers will 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. If after receiving a warning a customer continues behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

Licensed Name

61. (a) The Council at the time of granting the licence in respect of the premises shall appoint 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 name shall have been provided on the application form.
- (b) An application in respect of a change of licence 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.

Benchmarking Research

Please find below details of other similar local authorities that have adopted the relevant legislation and published a policy that includes reference to appropriate numbers of the relevant premises.

For each authority there is included:-

1. The name of the authority
2. The approximate date of the adoption/revision of the policy
3. Details of the relevant section of the policy
4. A link to the full policy on the authorities website
5. A summary of that authorities position on the matter
6. A copy of the relevant part of the policy

Cambridge City Council (October 2016) – see section 9 - <https://www.cambridge.gov.uk/sex-establishments>

Summary – No appropriate numbers set

9. Location of Licensed Premises

9.1 We have not imposed a limit on the number of premises that may be licensed in any area of the City, however, whilst deciding each application upon its own merits we will not normally licence premises that are in close proximity to:

9.1.1 a residential area

9.1.2 a school, nursery or any other premises substantially used by or for children under 16 years of age;

9.1.3 a park or other recreational areas used by or for children under 16 years of age;

9.1.4 a church or other place of religious worship;

9.2 In addition, we will consider public safety issues when determining whether an area is appropriate; for example, areas that attract a high percentage of female, elderly or young users may be considered to be inappropriate. Where we receive an application, which we consider to be within close proximity to those areas or premises identified in paragraph 9.1, the application will not be automatically refused. Applications presenting genuinely exceptional circumstances may be granted.

9.3 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a sex establishment.

9.4 We would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

Nottingham City Council (August 2016) see section 1. Introduction - <http://www.nottinghamcity.gov.uk/business-information-and-support/business-and->

Summary – No appropriate numbers set

1. INTRODUCTION AND DEFINITIONS

This document sets out Nottingham City Council's Policy regarding the licensing and regulation of Sex Establishments. Applications for such premises can raise significant concerns within the community and locality where the premises are, or are intended to be, located.

The Council aims to strengthen community cohesion and civic pride in every neighbourhood whilst seeking to lower crime and fear of crime and reducing anti-social behaviour. This Policy is intended to guide the Council in balancing the sometimes conflicting needs and interests of businesses, patrons, employees, residents and communities when considering applications for Sex Establishment licences and informs applicants and objectors of the parameters under which the Council will make licence decisions.

Whilst the Council has not set a maximum number of establishments for the City, it will consider new applications and locations robustly before granting any further licences.

Each application will be considered on its merits however it should be noted that application fees are non-returnable.

In relation to Sexual Entertainment Venues, further permissions may be required under separate legislation to enable the provision of other licensable activities for which the relevant fees and charges will be levied.

In such cases, there should be no presumption assumed from the result of one application against that of a related application.

Leeds City Council (September 2013) – see survey at paras. 2.7-2.15 and paras. 7.7-7.19 - <https://www.leeds.gov.uk/business/licensing/other-licences/sex-establishment-licence>

Summary – Extensive public survey undertaken.

No appropriate numbers set for sex shops or cinemas.

Appropriate no. of 4 set for sexual ent. venues in the city centre

Appropriate no. of 0 set for sexual ent. venues outside the city centre

The appropriate number of 4 SEV's in the city centre was recommended by a working party of officers and cllrs and took into consideration the results of the public survey.

At the time of adopting the policy which included appropriate numbers, there were 6 licensed SEV's. When these applied to renew their licenses only 3 were granted.

The decisions not to renew 3 of the licenses were based upon locality

rather than any exceedance of the appropriate no.
It was a 3 further years before an application was made to fill the fourth city centre space.

Appropriate numbers and localities

7.7 The council may refuse a licence on the grounds that the number of licences of that type is equal to or exceeds the number which the authority consider is appropriate for that locality. The council has considered each and every part of the city of Leeds in order to identify whether there are any localities in which the licensing of sex establishments is appropriate.

7.8 In deciding when and if so what policy to adopt in relation to this discretionary ground, the council has taken into account the matters set out in sections 2 to 6 of this policy. It has been influenced by the following considerations.

7.9 The Council has taken account of its own corporate strategies and priorities as represented by its Vision for Leeds 2011 to 2030, Leeds Unitary Development Plan, Violence Against Women Strategy and Child Friendly. The council believes that, in taking these strategies into consideration, SEVs are not in accordance with a culturally rich and diverse city. In particular SEVs tend not to be inclusive facilities, appeal only to a narrow sector of the community and are unlikely to enhance the cultural and child friendly reputation of the city.

7.10 The council has had due regard to the need to advance equality of opportunity between men and women. It considers that the presence of SEVs in any locality of Leeds will not advance equality of opportunity of women workers or residents. It recognizes that a nil per locality policy may reduce the employment opportunities for dancers. However is also recognises that those working in SEVs are often peripatetic and self-employed and will retain the opportunity to find employment as performers in other venues in Yorkshire or in other roles in the entertainment industry. The council believes that, on clear balance, in gender equality terms, its policy is both supportable and correct.

7.11 The consultation with the Citizen's Panel revealed that a majority of residents in Leeds consider that SEVs are inappropriate in the vicinity to premises with particular sensitive uses. The following uses all scored highly:

- Schools and other areas of education
- Play areas/parks
- Youth facilities
- Residential areas
- Women's refuge facilities
- Family leisure facilities such as cinemas, theatres and concert halls
- Places of worship
- Places used for celebration or commemoration
- Cultural leisure facilities such as libraries, museums

- Retail shopping areas
- Historic buildings

7.12 The council agrees that these uses are sensitive and that SEVs are generally not appropriate near them.

7.13 The consultation with the Citizen's Panel indicated that in particular rural, residential and deprived areas were particularly unacceptable as localities for SEVs to be located in. When considering each of the council wards the council has considered if it could be considered a rural, residential or a deprived area. Even areas outside of the city that would be considered a built up area are also largely residential. The council has considered each and every ward and has determined all areas outside of the city centre to be unacceptable localities for SEVs to be located due to their proximity to rural, residential or deprived areas.

7.14 The same results indicated that 32% agreed and 50% disagreed that the city centre would not be an acceptable locality to locate a lap dancing club in. In addition 42% of respondents agreed and 36% of respondents disagreed that it would not be acceptable to locate a SEV in busy late night economy area. 39% of respondents agreed and 41% of respondents disagreed that it would not be acceptable to locate a SEV in a built up area such as a town centre.

7.15 The Citizens Panel also looked at areas within the city centre that would not be acceptable to locate a SEV. 10 of the 11 areas designated in the survey received a response that indicated that it is more unacceptable than acceptable to locate a SEV on or near to them. The only area in the city centre that was inconclusive was the Call Lane, The Calls, Assembly Street area. This area is designated as a violent crime hotspot by West Yorkshire Police and is included in the council cumulative impact policy under the Licensing Act 2003.

7.16 Therefore, it is the council's policy that there is no locality outside of the city centre in which it would be appropriate to license a sexual entertainment venue. Accordingly the appropriate number of SEVs for outside of the city centre is nil.

7.17 Taking into consideration all the matters mentioned in this section the appropriate number of SEVs in the city centre is a maximum of four providing those premises are not near properties with sensitive uses or in sensitive locations.

7.18 The extent of the city centre is indicated on the following map:

(Map not reproduced)

7.19 The council has not determined a limit on numbers or locality in relation to sex shops or sex cinemas. These applications will be dealt with on a case

by case basis but applicants can be guided by the criteria mentioned at 7.4 to 7.6.

Bristol City Council (January 2012) – See Section 8 and Appendix A re numbers restrictions and localities -

<https://www.bristol.gov.uk/documents/20182/35132/19.01.12+SEV+Policy+Amended+for+web+v1.2EL.pdf/b9420b51-7a33-4451-9982-1649fc5e11b1>

Summary – Policy is contradictory in that section 8 states that it will not predetermine localities or appropriate numbers, and will consider each on a case by case basis, whereas Appendix A does set out specified localities and max. nos. of the various types of venue

8. Grounds for refusal

Discretionary ground (c)

The Council is mindful of its power to determine an appropriate maximum number of sex establishments, or of sexual entertainment venues, in the relevant locality at the time of application is determined. The Council will adopt the same approach to this issue when determining applications for sexual entertainment venues as it has taken with respect to applications for sex shop licences. It will not seek to predetermine the localities that are comprised within the City of Bristol or predetermine the appropriate number for each such locality, but will consider this issue on a case by case basis. That is to say, it will decide what is the relevant locality as a matter of fact in each particular application and not by drawing boundaries on a map or some other method.

Having established the relevant locality, in considering the issue in ground 'c' the Council will take into account all relevant considerations including:-

The character of the locality:

- residential
- leisure
- educational establishments

Other uses in the locality:

- faith / religious institutions
- churches
- family friendly facilities

Impact on regeneration

Impact on tourism, including considerations of the perception of the City at gateway locations

Impact on retail attraction

Risk of public nuisance

Whether the locality is subject of stress caused by a cumulative impact of premises authorised to provide licensable activities under the Licensing Act 2003;

Impact on crime and disorder

Public perception of the safety of the locality and impact on that perception, e.g. typical footfall at material times, level of street lighting, use by lone females

Existence of social problems in the locality and impact on any initiatives to tackle them, e.g. kerb crawling, prostitution.

Levels of recorded crime

Levels of anti social behaviour

Appendix A shall be maintained within this policy to record all decisions made to control the number of sex establishments under this provision.

APPENDIX A

RECORD OF DECISIONS TAKEN TO CONTROL THE NUMBER OF SEX ESTABLISHMENTS IN LOCALITIES IN BRISTOL

On 23rd November 2011 the Licensing Committee determined three localities in Bristol and specified the maximum number of Sex Shops, Sex Cinemas and Sexual Entertainment Venue within each locality.

Old Market / West Street Locality

2 Sex Shops, 0 Sex Cinemas, 1 Sexual Entertainment Venue

City Centre Locality (see map)

2 Sex Shops, 0 Sex Cinemas, 2 Sexual Entertainment Venues

Bishopston / Redland / Cotham / Ashley Locality

0 Sex Shops, 0 Sex Cinemas, 0 Sexual Entertainment Venues

Exeter City Council (August 2015) - See policy 7 on p. 19 -

<http://exeter.gov.uk/media/1423/sex-establishment-policy-aug-2015.pdf>

Summary – Appropriate number for sexual entertainment venues set at zero for the whole of Exeter. Appropriate number of one set for each of the two localities where the existing sex shops were based.

POLICY 7: THE NUMBER OF SEX ESTABLISHMENTS

1. The Council's Policy is that there is no locality within Exeter in which it would be appropriate to licence an SEV or a sex cinema. Accordingly, the appropriate number of these categories of sex establishments for each and every locality within Exeter is nil.

2. The Council's Policy is that there are currently two localities in which it is appropriate to licence a sex shop and these are the localities surrounding the existing licensed premises in Fore Street and Sidwell Street. Accordingly, the appropriate number of sex shops for each of these localities is one.

Brighton and Hove City Council (2010)- See para. 3.2 and 4.3 for locality restrictions - https://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/downloads/licence_applications/2010_Sex_Establishment_Policy_-_r3-fix.pdf

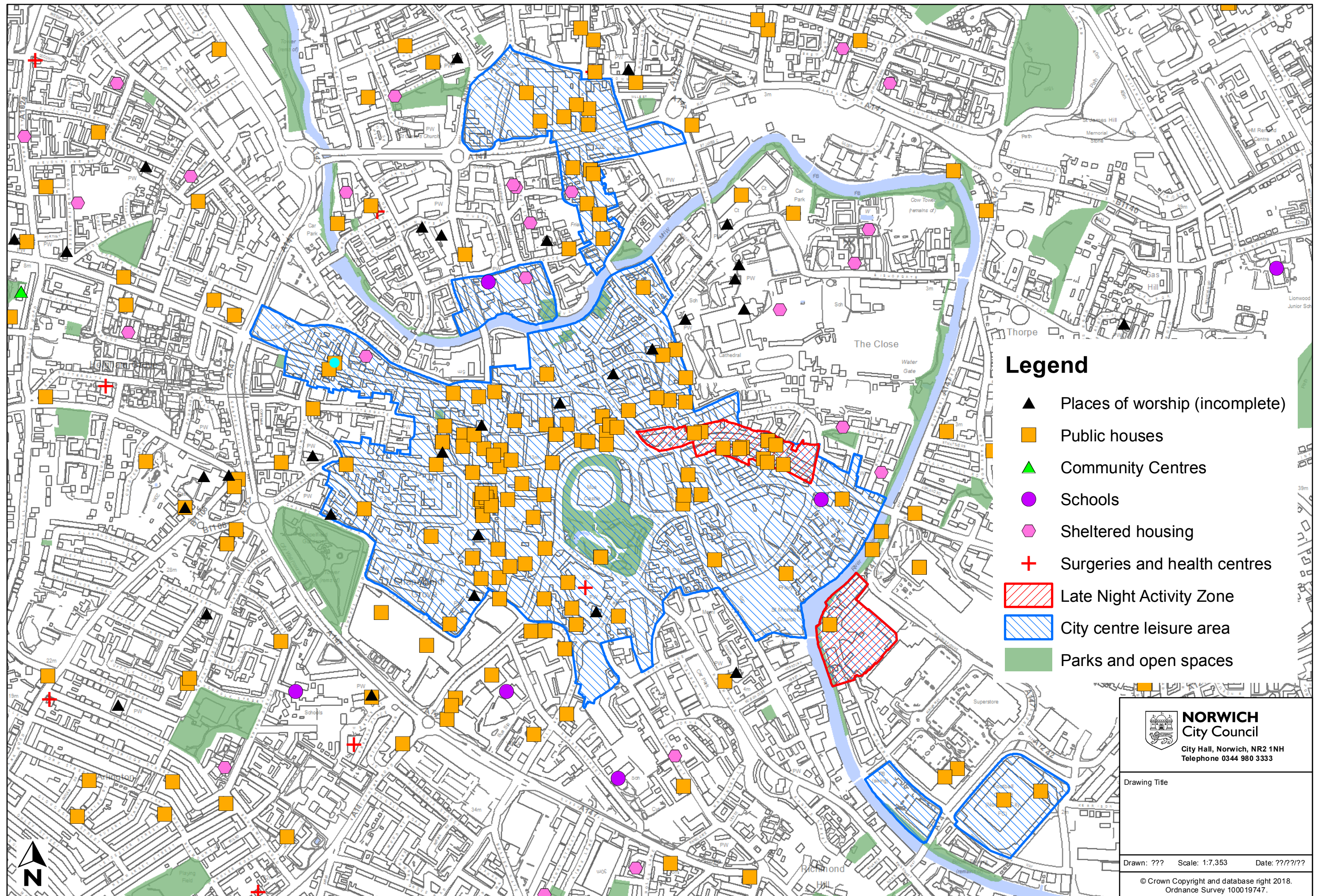
Summary – appropriate numbers set for the various types of sex establishment and localities within the local authority area, in order to limit the numbers to existing operating premises at the time that the policy was introduced.

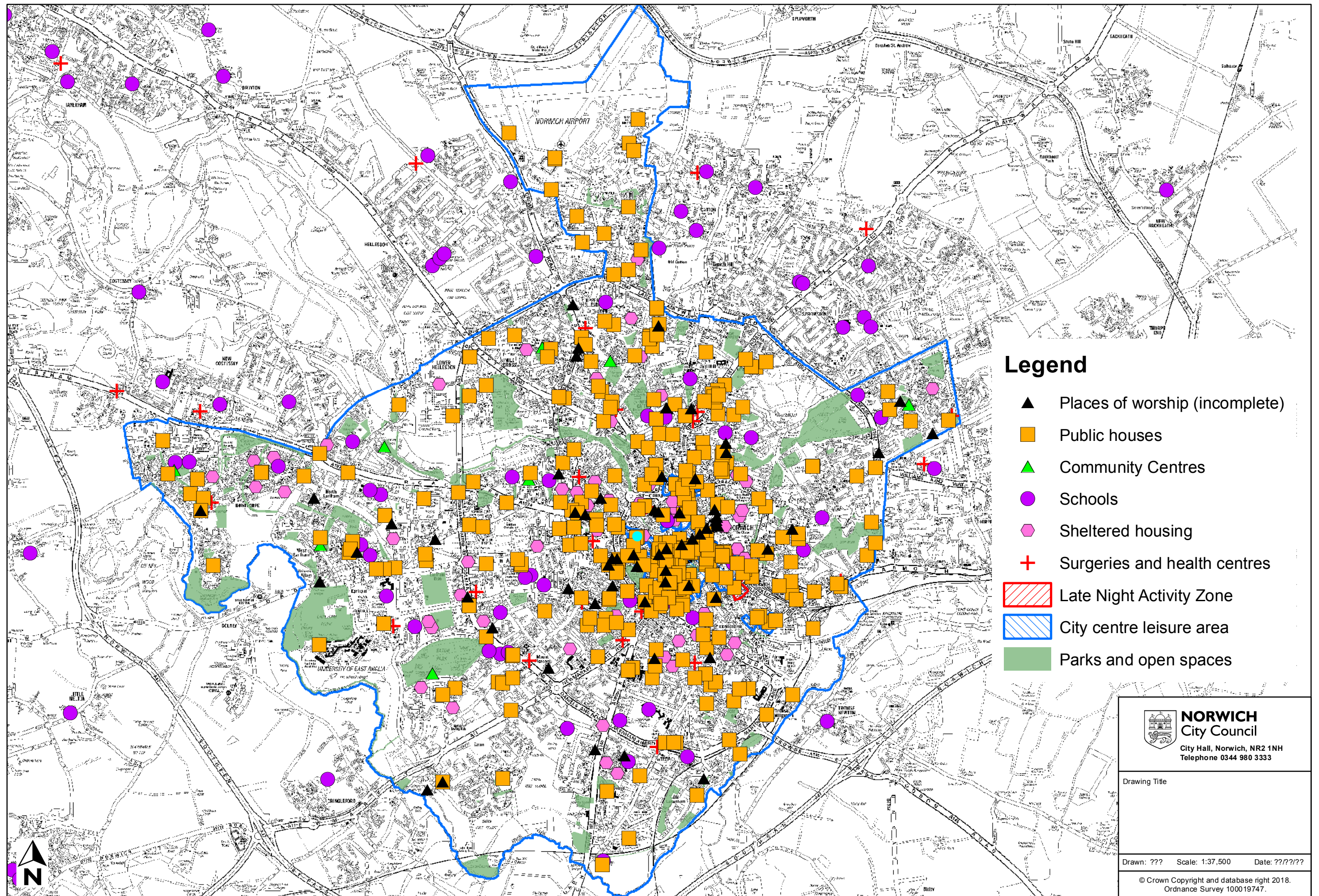
3.2 A new licence will not normally be granted in the relevant locality if at the time the application is made the number of sex shops and sex cinemas in the relevant locality is equal to or exceeds the number the authority considers appropriate for the locality.

St. James Street shopping parades	2
Brighton Station shopping parades	2
Hove shopping parades	1
All other residential, shopping, commercial, industrial land	Nil

4.3 Except in exceptional circumstances, a new licence for a SEV will not be granted in the relevant locality if at the time the application is made the number of SEVs in the relevant locality is equal to or exceeds the number which the authority considers appropriate for the relevant locality, as follows:

Brighton Leisure Centre	3
Hove Commercial Centre	Nil
All other areas within the City	Nil







Regulatory Subcommittee

14:00 to 14:50

17 September 2018

Present: Councillors Malik (chair), Bradford, Brociek-Coulton and Fullman

Apologies: Councillor Henderson

1. Declarations of Interest

There were no declarations of interest.

2. Highways Act 1980: application for licence to place tables and chairs on the highway - The Iron House, 1 St John Maddermarket Norwich NR2 1DN

(The applicant and his agent attended the meeting for this item.)

The licensing assistant presented the report and highlighted that extra papers had been provided by the council's highway department who were represented at the meeting. This included measurements of the highway around the restaurant and a newspaper article featuring the applicant.

The applicant addressed the committee and answered their questions in relation to the application. He said the application aimed to improve the dining experience for customers by offering al fresco seating. He said the area outside the restaurant where the tables and chairs would be situated was a mainly pedestrian area.

The applicant noted that other businesses in the area had tables and chairs outside and presented photos to the committee. (The licensing assistant clarified in response to a question from the legal advisor to the committee that the businesses referred to did not have relevant legal applications in place. The legal advisor requested a letter be sent to the businesses advising them of such.)

The applicant referred to the newspaper article provided by the transport planner and acknowledged the concerns raised in relation to the application. He confirmed that there had been past problems with lorries on Lobster Lane clipping the building in which the restaurant was located but that this had been resolved by bollards being placed at the edge of the structure. Discussion ensued regarding the nature of the area and its level of use by lorries.

The transporter planner addressed the meeting; he said he strongly objected to the application because it placed the public at risk. He said that there was a statutory duty to protect the public on the highway and applications for tables and chairs were discretionary. He said the dimensions of the streets were constrained and there were a number of competing priorities made on the space.

The transport planner said St John Maddermarket was an access only road, vehicles were permitted to travel in one direction but there was no restriction on access times. Footfall in the area was high and cycling happened in both directions. He stated that the risk was that a lorry could come past and push pedestrians into the margins of the road where the tables and chairs were proposed to go.

Discussion ensued regarding barriers in the restricted space. The applicant said that barriers could be used to “book end” the tables and chairs and therefore would not add to the space required. The applicant and his agent emphasised that they wanted to work with the council; they would consider amending the application, including numbers of tables and chairs, spaces and times of day.

Debate ensued regarding the dimensions of the space for the application and that the application listed different measurements than that provided by the council's highways department. The legal advisor to the committee asked if the applicant and his agent accepted the measurements in the plan provided by the council's highways department. After debate the measurements were accepted to be accurate by the applicant.

(The applicant, his agent and the licensing assistant left the meeting at this point.)

RESOLVED, unanimously, to refuse the application to place tables and chairs on the highway – The Iron House, 1 St John Maddermarket Norwich NR2 1DN due to the risk to highway safety after consideration of evidence including comments from the council's highways department.

(The applicant, his agent and the licensing assistant were readmitted to the meeting and the applicant informed of the resolution above.)

CHAIR



Regulatory Subcommittee

14:00 to 14:45

8 October 2018

Present: Councillors Malik (chair), Driver (substitute for Councillor Fulton – McAlister (E)), Huntley, Maxwell and Price

Apologies: Councillor Fulton-McAlister (E)

1. Declarations of Interest

There were no declarations of interest.

3. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of item 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.

4*. Application for Grant of Private Hire Drivers' Licence – Application ref 1800701 PHDRIV

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. The licensing assistant confirmed that a copy of the report had been sent to the applicant with a letter about the meeting. A full copy of the agenda was provided to the applicant at the meeting. The applicant confirmed that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The licensing assistant presented the report and appendix A of the report which contained the Disclosure and Barring Service certificate that listed the applicant's convictions.

The applicant answered members' questions and explained that he had considered that it was only necessary to declare his unspent conviction dated 16 June 2017 on the application form. (A copy of the application form was circulated at the meeting.) Members referred to the list of convictions contained in appendix A and asked the applicant to explain the circumstance for the unspent conviction for three charges of assaulting a constable on 16 June 2017 and clarification of the dismissal of a drink/drug driving conviction on appeal on 22 February 2012. The applicant said that he was now clean of drugs and no longer took cannabis. He considered that the rehabilitation courses he had attended had been beneficial. The *Thinking Skills*

course had helped him to recognise other people's emotions and to exercise self-control, manage his anger and not retaliate.

In reply to further questions, the applicant said that he had applied for a private hire drivers' licence to work evenings and provide additional financial support for his family. The chair asked the applicant whether the officers had pointed out that the council's guidance for committee members was that three years should elapse before a person with a conviction for assault was granted a licence. In reply, the applicant referred to the circumstances that had led to the unspent conviction and, on further questioning from the chair, on the circumstances that had led to his convictions for assault, occasioning actual bodily harm on 12 October 2012. On further questioning, the applicant explained the circumstances for the conviction of being in possession of MDA in 2008.

In reply to the legal advisor, the applicant confirmed that all the convictions listed in Appendix A could be admitted for consideration. He confirmed that he was now 29 years' old and that the first conviction had been when he was only 19. He said that he had taken a long time to grow up and the rehabilitation courses had changed his mind set and the way he reacted to people.

(The applicant and the licensing assistant left the meeting at this point.)

RESOLVED, with 1 member abstaining from voting (Councillor Driver), to refuse the grant of a private hire drivers' licence to the applicant (Application ref 1800701 PHDRIV) as the committee considered that the applicant did not satisfy the test of being a fit and proper person to hold a PHV driver's licence under s51 LG(MP)Act 1976, for the reasons as set out in the statement summarised below:

"The members of the committee have carefully considered all the information before them, both in writing and the representations made by the licensing assistant and the applicant, in respect of this application.

The subcommittee has had regard to all the previous convictions recorded against the applicant. The committee is of the view that all the offences listed are relevant to the licence being applied for but have placed less weight to the two convictions relating to the use of disorderly behaviour due to the date of those convictions and the age of the applicant when he committed them.

The subcommittee has considered each of the convictions recorded and the criteria given in the council's licensing criminal convictions' policy in respect of the offences. The subcommittee is aware that this policy is for guidance only and that the committee is not bound by it. Whilst having regard to the policy it has considered this case on its individual merits.

The members have noted the dates of each conviction, their seriousness, the sentences imposed by the court, the number of convictions and the time which has lapsed since the convictions.

The members are concerned that the applicant is not free of some of the convictions for periods being more than 3 years, 5 years and 10 years when applying the criteria in its convictions' policy and particularly noting that the applicant is still subject to the terms of a suspended prison sentence.

The subcommittee has looked at the overall offending history in assessing the application and has taken the view that the offences relating to the drugs form part of a pattern of offending, as do the offences of violence. The members noted these are not isolated convictions but are a series of offences over a not insignificant period.

The members have listened carefully to what the applicant has had to say about the offences and the fact that the applicant has attended courses which he has said he learnt a lot from and found beneficial.

The members are aware of the applicant's age at the date of the convictions, in particular the oldest convictions and his age today.

The committee is mindful that it needs to balance the applicant's interests with the interests of the public and that the overriding consideration is the protection of the public.

Taking into account, all matters the committee is not satisfied that the applicant is a fit and proper person to hold a private hire driver's licence having regard to the overriding aim, which is to protect the safety of the public. The committee does not grant this application."

(The applicant and the licensing assistant were readmitted to the meeting. The legal advisor informed the appellant of the subcommittee's decision and read out the statement minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision and of his right to appeal to the Magistrates' court within 21 days of receipt of the written notification. The applicant and the licensing assistant then left the meeting.)

CHAIR



Regulatory Subcommittee

14:00 to 16:35

12 November 2018

Present: Councillors Malik (chair), Ryan, Stewart and Thomas

Apologies: Councillor Ackroyd

1. Declarations of Interest

There were no declarations of interest.

2. Agenda order

The environmental protection, licensing and markets manager asked that the agenda order be amended so that the committee could consider the three suspension or revocation of Norwich City Council hackney drivers' licences, as an applicant had been asked to attend for 14:30.

3. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of item 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.

4*. Suspension/Revocation of Norwich City Council Hackney Carriage Drivers Licence No. 15/02522/HACKD (Paragraphs 1 and 3)

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The licence holder produced his DVLA licence for inspection by the committee. The environmental protection, licensing and markets manager confirmed that a copy of the report had been sent to the licence holder with a letter about the meeting. A copy of the report was provided to the licence holder at the meeting. The licence holder confirmed that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The environmental protection, licensing and markets manager presented the report and referred to the licence holder's email set out in appendix A.

The licence holder then explained the circumstances of his receiving a conviction for using a mobile phone whilst driving and his subsequent court hearing. In reply to

questions from members of the subcommittee the licence holder confirmed that this was his only employment and that he had failed to notify the council within 7 days of his conviction because he had been seeking advice about appealing it.

(The licence holder and the environmental protection, licensing and markets manager left the meeting at this point.)

RESOLVED, unanimously, not to revoke or suspend Norwich City Council hackney carriage drivers licence no. 15/02522/hackd. The subcommittee had considered that road safety was a serious matter and noted that the licence holder had received a fine and 6 points on his DVLA licence. The subcommittee, however, considered that this was a single incident in 7 years of working as a hackney carriage driver which the licence holder is not likely to repeat. The committee agreed to give the licence holder a formal warning and advised him to read the Byelaws, Regulations and Conditions applicable to Hackney Carriage and Private Hire Vehicle, Proprietors, Drivers and Operators manual (the “Green Book”).

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The legal advisor informed the appellant of the subcommittee’s decision and listed the reasons for this decision as minuted above. The legal advisor advised the licence holder that he would receive written notification of the subcommittee’s decision. The licence holder and the environmental protection, licensing and markets manager then left the meeting.)

5*. Suspension/Revocation of Norwich City Council Hackney Carriage Drivers Licence No. 16/00081/HACKD (Paragraphs 1 and 3)

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The licence holder produced his DVLA licence for inspection by the committee. The environmental protection, licensing and markets manager confirmed that a copy of the report had been sent to the licence holder with a letter about the meeting. A copy of the report was provided to the licence holder at the meeting. The licence holder confirmed that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The environmental protection, licensing and markets manager presented the report and referred to the licence holder’s email set out in appendix A. He also advised the subcommittee that the licence holder had informed him before the meeting that within the last 7 days he had received a further 3 points on his licence.

The licence holder then explained the circumstances of his receiving a conviction for using a mobile phone whilst driving on 11 September 2017 and subsequent court hearing on 20 August 2018.

The environmental protection and licensing and markets manager said that all drivers have seven days in which to inform the council if the number of points on their DVLA licence exceeds 6 points. The circumstances of this new conviction would need to be considered at the next meeting and would be based on the information provided by the licence holder. The legal advisor asked the licence holder whether he wanted the members to take the other conviction into

consideration at this meeting and asked him whether he wanted legal representation at the meeting. The licence holder confirmed that he was happy to proceed and explained the circumstances that led to his conviction on 8 November 2018 where he had been found guilty of passing through a red light.

(The licence holder and the environmental protection, licensing and markets manager left the meeting at this point.)

RESOLVED, unanimously, not to revoke or suspend Norwich City Council hackney carriage drivers licence no. 16/00081/hackd. The subcommittee had taken into account that the licence holder had pleaded guilty or been found guilty at trial of two matters of road safety and that this was a serious matter as demonstrated by the fines and points on the licence holder's DVLA licence. The subcommittee had serious concerns about the licence holder's behaviour, but considered that the suspension/revocation threshold had not been reached, and agreed to give the licence holder a formal warning and advise him to read the Byelaws, Regulations and Conditions applicable to Hackney Carriage and Private Hire Vehicle, Proprietors, Drivers and Operators manual (the "Green Book").

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The legal advisor informed the appellant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the licence holder that he would receive written notification of the subcommittee's decision. The chair reminded the licence holder that he was 3 points away from losing his DVLA licence. The licence holder and the environmental protection, licensing and markets manager then left the meeting.)

6*. Suspension/Revocation of Norwich City Council Hackney Carriage Drivers Licence No. 16/00920/HACKD

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The environmental protection, licensing and markets manager confirmed that a copy of the report had been sent to the licence holder with a letter about the meeting. The licence holder confirmed that he had a copy of the report and that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The environmental protection, licensing and markets manager presented the report and referred to the licence holder's email set out in appendix A. The minutes and report of the regulatory subcommittee dated 15 September 2014 relating to the licence holder were circulated at the meeting.

The licence holder explained the circumstances leading to the suspension of his DVLA licence for six months starting from 15 October 2018, following the receipt of 3 points for a SP30. In reply to a question from the chair, the licence holder then explained the circumstances for the other convictions, not listed in the report, which contributed to the total of 12 points. In all cases the licence holder had not had a passenger on board. The environmental protection, licensing and markets manager confirmed the dates of the convictions ranging from October 2016 to January 2018, and confirmed the council's procedures when a licence holder was suspended from driving. He confirmed that the licence holder had ceased operating as a hackney carriage driver when his DVLA licence was suspended. (The legal advisor referred to

the guidance as attached to the committee papers.) The licence holder said in mitigation that his personal circumstances, or when he had been tired or stressed, had led him lose concentration. He advised the committee that he was working as a care support assistant but that the loss of his DVLA licence and being unable to work as a licenced hackney carriage driver had resulted in financial loss. He also confirmed that he had attended a speed awareness course rather than receive points on his DVLA licence.

(The licence holder and the environmental protection, licensing and markets manager left the meeting at this point.)

RESOLVED, unanimously, to suspend the Norwich City Council Hackney Carriage Drivers Licence No. 16/00920/HACKD for a period, to run concurrently with the suspension of the licence holder's DVLA licence. The subcommittee had taken into account the licence holder's financial situation. Members were seriously concerned about the licence holder's conduct but noted that no passengers were on board at the time of each speeding contravention. The subcommittee considered that on balance the licence holder was a fit and proper person to be a taxi driver and that he should be advised to read the Byelaws, Regulations and Conditions applicable to Hackney Carriage and Private Hire Vehicle, Proprietors, Drivers and Operators manual (the "Green Book").

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The legal advisor informed the licence holder of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the licence holder that he would receive written notification of the subcommittee's decision and had up to 21 days from receiving this to appeal to the magistrates' court. The licence holder and the environmental protection, licensing and markets manager then left the meeting.)

(The committee having considered all the exempt items on the agenda then admitted the public to the meeting for the following item.)

7. Highways Act 1980: Application For Licence To Place Tables And Chairs On The Highway - Ribs Of Beef, 24 Wensum Street Norwich Nr3 1hy

(Roger Cawdron, the applicant, Philip Sneddon his agent and Susan Kyd, the objector, and Ian Paveley, two local residents attended the meeting for this item.)

General introductions ensued in which it was ascertained that Susan Kyd was acting as a proxy for the following residents, Moire Lennox and Rob Murphy; and Virginia Vacy-Ash, who had all submitted representations as part of the consultation. The legal advisor advised all parties that they should restrict their comments to the issues that had already been raised in response to the consultation and circulated with the papers for the meeting.

In response to a query from the chair, the environmental protection, licensing and markets manager explained that the application form did not have a signature because it had been received electronically.

The environmental protection, licensing and markets manager presented the report. He explained that the applicant had reduced the proposed hours of operation from

midnight to 23:00.

The agent addressed the subcommittee in support of the application. The applicant was the freeholder of the public house since 1987. It had been a public house since the fourteenth century. Its patrons were families, older and more mature clients and the publican hosted charitable events such as Christmas carols and duck races. The application originally had been made for 6 tables and 12 chairs to be located directly outside the public house. The council's transport planner had advised that there was insufficient space in front of the pub. The applicant had then reapplied, paying an additional fee, for the same number of tables and chairs to be located on the adjacent bridge. This area was covered by CCTV cameras and the licence requested was to 23:00. There had been no objections from the fire service or access groups.

The agent then referred to the four letters of objections received from local residents and said that in response to their concerns about noise, the applicant had reduced the requested hours of operation from midnight to 23:00. The area would be well staffed and served from the cocktail bar. He explained that the area to the rear of the premises was no longer available for outside seating. The premises did have an outside balcony which was used for seating. The bridge was further away from residential properties. There were no proposals for a cycle path at this location. There had been no objections from the statutory consultees. The applicant had taken into consideration of the comments from residents.

Members of the subcommittee then asked the applicant and agent questions about the application. The applicant confirmed that the highway had been used for charitable events in the summer where a table and chairs had been used for 2 to 3 hours. The agent explained that the balcony was accessible by a narrow staircase and was about a metre wide. The agent explained that the seating for 37 people to the rear of the public house was no longer available as there was a civil dispute relating to its ownership. This was the main reason for the current application so that the public house could continue to provide outside seating to its patrons. In response to whether older people would require outside seating at 23:00, the applicant said that the pub had a mixed clientele, including local residents, who dropped in for a nightcap after an evening out. The premises had a 24 hour licence but usually closed at midnight or 23:00 at weekends.

Discussion then ensued on the application to place the tables and chairs on the highway on the bridge and the reasons why this had been suggested by the transport planner. The environmental protection, licencing and markets manager explained that the transport planner had made the proposal because there was insufficient room on Wensum Street outside the premises. Members then sought reassurance how the licensed area on the bridge would be monitored. The agent confirmed that the area was covered by CCTV cameras and was in a visible location where the street was at its widest with a wide pavement. The proposal to use A-boards as a barrier had been in response to confusing advice. The applicant said that there had been a GoGo Hare on the bridge and it had not caused any obstructions.

On the advice of the legal advisor a question from a member relating to the operation of other tables and chairs licences on the highway in the area was withdrawn.

The objector addressed the subcommittee and outlined her neighbours' objections to

the proposed tables and chairs licence. She expressed concern that noise from the seating area would carry down the river and late at night disturb resident's sleep.

Referring to Mrs Vacy-Ash's concerns, the objector said that there was concern that there were too many outside drinking places and that as a public house would be rowdy and noisy. She said that The Glasshouse closed its seating area at 22:00 because of the residents. Residents were concerned about antisocial behaviour and drug taking in the area as people "spilled out" of the public houses and the detrimental impact on their homes with people using gardens to relieve themselves. The objector then answered members' questions on the residents' concerns and asked whether any complaints had been made to the Ribs of Beef. She said that lots of her neighbours had complained about an incidence of loud music one Sunday evening. The Ribs of Beef was one of the public houses in the area which included The Mischief, the Glasshouse and The Lawyer. The objector said that she had not personally commented on this application because she had not seen it advertised and only become aware of it through social media. A member of the subcommittee advised residents that they should contact the police about incidents of antisocial behaviour.

In response the agent reiterated that there was a dispute about the ownership of the land to the rear of the public house which had been used by the premises for external seating. He confirmed that some of the noise that the residents were concerned about could come from the neighbouring public house where there was a younger clientele. The agent and applicant then answered questions from the chair relating to the management of the proposed licensed area in terms of monitoring the CCTV camera and maintaining a good level of staff with a minimum of two to three on duty. The applicant said that during hot weather everyone wanted to be outside and bar staff would have fewer people inside to look after. The applicant confirmed that the licence application had been advertised twice. He also said that people could stand outside the premises at any time and were not restricted to midnight or 23:00.

At the request of the chair, the comments from the transport planner relating to the width of the footpath adjacent to the premises being unacceptable because of its "narrow extent of approx. 1.4 metres" and that it would impede pedestrians and proposing "an alternative layout making use of the wider section of footway across the bridge" were circulated at the meeting. The objector said that the bridge was a "beauty spot" and was used by visitors to take photographs. The use of barriers would be very unattractive and ruin the view.

The legal advisor advised members and all parties present about the decision making process and that there was no right of appeal other than judicial review.

The agent reiterated the reasons for approving this application including that the location of the seating area had been recommended by the transport planner, that there were other premises in the area that he considered were responsible for the noise that the residents had reported, that the applicant had been running the public house since 1987 and tried to work with people and had reduced the application to 23:00. In reply to a further question from the chair, the applicant confirmed that the food was available until 20:00.

The chair moved and Councillor Ryan seconded that members of the public be excluded from the meeting in order for the subcommittee to receive legal advice:

RESOLVED to exclude the public from the meeting during consideration of item 4* below on the grounds contained in paragraph 5 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

(The applicant, agent, environmental protection, licensing and markets manager and the members of the public left the meeting at this point. The subcommittee having considered the application and received legal advice then readmitted the applicant, agent, environmental protection, licensing and markets manager and members of the public to the meeting.)

The chair advised members of the public that if they had any concerns about the operation of licensed premises they could submit a request to the council's licensing service for a review under the Licensing Act 2003.

Councillor Ryan proposed and Councillor Thomas seconded that the application for tables and chairs be granted subject to reducing the hours of operation to end at 22:00.

RESOLVED, with 3 members voting in favour (Councillors Ryan, Thomas and Stewart) and 1 member voting against (Councillor Malik) to approve the application to place tables and chairs on the highway in respect of the Ribs of Beef, 24 Wensum Street, Norwich, NR3 1HY subject to amending the opening times to 12 midday to 22:00.

The legal advisor read out the subcommittee's reasons for approval. Members considered that the tables and chairs on the highway in the location as stated in the application was not detrimental to pedestrians or other road users and did not compromise highway safety. Members had noted the residents' concerns about noise and had restricted the hours of operation of the licence to end at 22:00.

The chair advised residents that if they had concerns about noise and the operation of the licence they could request the council for a licence review and should keep a log.

CHAIR