

Report to	Licensing committee 8 th September 2017	Item
Report of	Head of citywide services	
Subject	Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982: Application for the Grant of a Sexual Entertainment Venue Licence – Sugar & Spice, 39 Prince-of-Wales Road, Norwich, NR1 1BG	9

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Sex Establishment Policy (Schedule 3 Local Government (Miscellaneous Provisions) Act 1982), to consider the application for the grant of a sexual entertainment venue licence in respect of Sugar & Spice, 39 Prince-of-Wales Road, Norwich, NR1 1BG.

Recommendation

That members determine the application for a sexual entertainment venue licence in respect of Sugar & Spice, 39 Prince-of-Wales Road, Norwich, NR1 1BG including consideration of the relevant locality.

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: None.

Ward/s: Thorpe Hamlet

Cabinet member: Councillor Maguire – Safe City Environment

Contact Officer: Tony Shearman, Environmental protection, licensing and markets manager - 01603 212278

Background documents

None

Report

The application

1. The applicant is:-

Dazmonda Ltd T/A Sugar and Spice
RHP Accountants
87 Yarmouth Road
Norwich
NR7 0HF

2. The application seeks to allow the premises to operate as a sexual entertainment venue
3. 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.

“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).

4. A copy of the application form and other application materials including a plan of the premises, are attached at appendices A and F. These are split due to the applicant requesting that the commercially sensitive material is not disclosed to the public.
5. Members are asked to note the applicant wishes to amend the standard licence conditions as detailed in Attachment 1 to their application.

Licensing Act 2003

6. This premises currently benefits from a premises licence issued under the Licensing Act, a copy of which is attached at Appendix B. Please note that this licence has since been amended to alter the opening and entertainment hours to:-

1000-0600 Mon-Fri
1000-0630 Sat
1000-0400 Sun

Relevant representations

7. There are no relevant representations to this application

Norwich City Council Sex Establishment Policy Statement

8. Attached at appendix C are the elements of the city council's policy, which are considered to have a bearing upon determining the application. Particular note should be given to para. 3.4, which does apply to this particular application, and refers to

having regard to the Home Office guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales.”

9. Appendix D of this policy details a list of standard conditions, restrictions and terms that would be applied to any licence granted, unless specifically varied.

Home Office guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales”

10. A copy of this guidance is attached at appendix D of this report. Members are asked to take particular note of ‘Section 4 – Transitional Provisions’ of this document.
11. This section details how the licensing authority should consider applications from operators that were already operating prior to the adoption of the requirement to licence sexual entertainment venues.
12. In essence it requires that applications from existing operators be considered all together but on their individual merits, and not determined on a ‘first-come-first-served’ basis.
13. These transitional provisions also set out a specific time frame for determination of applications, which due to various delays in the process, we are now outside of, but it is still considered appropriate to determine the application within the ethos of this framework.
14. This application is one of four separate applications from existing operators, to be determined.

Relevant Locality

15. Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 of the act 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.
16. Paragraph 11 of the NCC Sex Establishment Policy Statement, sets out the relevant matters with regard to relevant locality. 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).

Summary

17. Before determining the application the committee must consider whether the number of sex establishments or sex establishments of a particular kind, in the relevant locality at the time this application is made (determined) is equal to or exceeds the number which the authority consider is appropriate for that locality.
18. In determining the application the committee must give appropriate weight to:
 - Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982;
 - Home Office guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales”, in particular s.4 – Transitional Provisions;
 - The council’s own Sex Establishment Policy Statement, in particular the matters set out in s.9 – Determination of Applications.
 - Any relevant representations
19. When determining a licence application, the committee must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights and that members must give due regard to the Public Sector Equality Duty as required under s.149 of the Equality Act 2010.
20. In determining the application the committee may take such of the following steps as it considers appropriate in accordance with the above matters:
 - Grant the application as asked, along with the standard conditions, restrictions and terms;
 - Modify the standard conditions, restrictions and terms of the licence by altering or omitting or adding to them;
 - Reject the whole or part of the application
21. Finally, the committee is asked to note that it may not determine the application on moral grounds.

Fair Processing Statement – Norwich City Council is legally required to protect the public funds it administers. This means we may share information provided to us with other bodies responsible for auditing or administering public funds, or where undertaking a public function, in order to prevent and detect fraud. For further information please click here www.norwich.gov.uk/nfi

Norwich City Council

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

Application for a Licence to use any Premises, Vehicle, Vessel or Stall as a Sexual Entertainment Venue

All questions must be answered, save where otherwise stated. If relevant questions are not answered, the application will be deemed incomplete and will be returned to the applicant.

Section 1

Application details:

Is this licence for the: Grant ☒ Renewal ☐ Transfer ☐

Is the application made by: an individual ☐ a partnership or other unincorporated body ☐
a company or other corporate body ☒

Section 2

Answer only if Applicant is an individual

What is the full name of the individual?.....

Permanent Residential Address.....

.....

Any former names

Date of Birth Place of Birth.....

Date Became Resident in the UK.....or E.U Member State

National Insurance Number or E.U Member State Equivalent.

Telephone Number (during normal office hours)

Email Address:.....

Name and address to which correspondence to be sent (if different from above)

.....

Has the applicant a financial interest in the business which is the subject of this application?

Yes ☐ No ☐ If “yes” to what extent

Is the whole business owned by the applicant?

Yes ☐ No ☐



Section 3

Answer only if the Applicant is an unincorporated body or a partnership

Full Name of Applicant

.....

What are the names of the applicant's partners? Please complete the table below:

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence Throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member state

Are there persons responsible for the management of the Applicant other than the partners? If so state their names.

.....

.....

.....

Please confirm if the whole of the business is owned by the applicant? Yes ☐ No ☐

Section 4.

Answer only where the applicant is a company or other corporate body

What is the name of the Applicant?.....Dazmonda Ltd Trading as Sugar and Spice.....

Has the Applicant previously been known by any other name and if so what name?

No

If the Applicant is a company, what type of company is it (e.g., public or private, limited by share or guarantee, etc.)?

Private Limited Company

What is the registered number of the Applicant.....07165133

What is the registered office address? RHP Accountants, 87 Yarmouth Road Norwich NR7 0HF

In which country is the company incorporated? England

What is the date of incorporation of the company? 22nd February 2010

Please complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body.

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member State
Mr Simon Goodings	[REDACTED]	[REDACTED]	[REDACTED]
Mr Darren Crawford	[REDACTED]	[REDACTED]	[REDACTED]



Does the Applicant use any other trading names? If so, please state the trading name(s).

..... Dazmonda Ltd Trading as Sugar and Spice

What is the Applicant's trading address? Sugar and Spice 39 Prince of Wales Road Norwich NR1 1BG

.....
.....

Please confirm if the whole of the business is owned by the applicant? Yes ☒ No ☐

Section 5

All Applicants

Please give details of the person (if any) who is to be responsible for the management of the premises in the absence of the licence holder:

First Name..... Simon Surname..... Goodings

Former Name (if any) N/A

National Insurance Number or E.U Member State Equivalent..... [REDACTED]

Permanent Address: ... [REDACTED]

.....

Date of Birth: [REDACTED] Place of Birth..... [REDACTED]

Has any person named at any place in this application been associated in any way with any other application for a licence for a sex establishment? Yes ☐ No ☒

If "yes" give full details.....

.....



Section 6

Premises details:

Is this application in respect of: Premises ☒ Vehicle ☐ Vessel ☐ Stall ☐

Is the premises, vehicle, vessel or stall in use for sexual entertainment at the date of this application? Yes ☒ No ☐

If the answer is yes, state the name and address of the person or body currently operating the business..... Dazmonda Ltd Trading as Sugar and Spice 39 Prince of Wales Road Norwich NR1 1BG

What is full address of the premises for which a licence is sought?

..... 39 Prince of Wales Road Norwich Norfolk NR1 1BG

If the application is in respect of a vehicle, vessel or stall, please state where it is to be used as a sexual entertainment venue..... N/A

Under what name is, or will the premises be known?..... Sugar and Spice

Is the whole of the premises to be used under the licence? Yes ☐ No ☒

If no, please state:

a) which part of the premises is to be used for the purposes of the licence

..... Basement and Ground Floor

b) the use to which the remainder of the premises are to be put

..... 2 floors above - both currently vacant - Whole building owned by Dazmonda LTD

c) the names of those responsible for the management of the remainder of the premises

..... Simon Goodings / Darren Crawford

If the Applicant's interest in the premises is a leasehold one, please state:

a) Head-lease ☐ Sub-lease ☒

b) the name and address of the landlord and of the superior landlord where applicable

c) the length of the unexpired term



Section 7.

Proposed operation times and activities

Give the times it is proposed to operate the Premises for the purpose of this Licence;

<u>Day</u>	<u>Start</u>	<u>Finish</u>	<u>State any seasonal variations or non standard timings where you intend to use the Premises, which are different to those listed in the column on the left.</u>
Monday	9pm	6am	During December we will open at 8pm every Night
Tuesday	9pm	6am	
Wednesday	9pm	6am	
Thursday	9pm	6am	
Friday	9pm	6am	
Saturday	8pm	6am	
Sunday	9pm	4am	

Please give full details of the nature of the relevant entertainment e.g. lap-dancing, pole-dancing, stage strip show etc

.....

.....Please see attached.

.....

.....

.....

.....

Please confirm if the relevant entertainment involves full nudity ☒ Yes ☐ No

Section 8.

If the application is for the Transfer of a Premises Licence

Name of current Premises Licence Holder

.....

Please give the reason/s for the transfer application

.....

.....



Section 9.

Has the Applicant or any persons named in this form been convicted of a criminal offence whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details of unspent convictions below:

Convictions:

Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

Has the Applicant or any persons named in this form been cautioned whether in the UK or elsewhere ? Yes ☐ No ☒

If so, please give details below:

Cautions:

Forenames	Surname	Former Name (if any)	Offence	Date of Caution	Where caution administered

Has any person or the corporate or unincorporated body referred to in this application: -

Been disqualified from holding a licence for a sex establishment?	No
Been refused the grant / renewal / transfer of a licence for a sex establishment?	No
Been the holder of a sex establishment licence when that licence has been revoked?	No
Been associated in any way with any other application for a sex establishment licence?	No
If 'Yes' to any of the above please provide details:	

Is there any information in this application which you would **not** wish to be seen by members of the public?

Yes ☒ No ☐

If yes, state which information and the reasons why you would **not** wish it to be seen

.....

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

.....



.....
(If necessary, please continue on a separate sheet)

Please read the checklist below and tick to confirm you have enclosed all of the required information/documents;

I have made or enclosed payment of the fee ☒

I have enclosed a plan showing the interior layout of the premises (which is clearly marked to indicate where relevant entertainment will take place) for consideration by the Licensing Authority ☒

I have enclosed a copy of the "club rules". Such club rules must contain the required conduct of performers which shall include for example, no sex acts, no giving or taking phone numbers (including exchange of business cards). ☒

I have enclosed a scheme showing the exterior design for consideration by the Licensing Authority ☒

I understand and agree that I must send a copy of my completed application to the Chief Officer of Police no later than seven days after the date of the application. I also understand that I must produce evidence of due service of the Notice of Application upon the Chief Officer of Police as required by paragraph 10(14) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒

I understand that I must now advertise my application on or near the Premises for 21 days starting with the date of the application. ☒

I understand that I must advertise the application in a local newspaper within seven days after the date of the application and that a copy of the notice of application which has been published must be given to the Licensing Authority in accordance with paragraph 10 (8) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒

DECLARATION: I declare that the details in this application are true to the best of my knowledge and belief and acknowledge that if there are any omissions or incorrect statements of a serious nature this may result in the application being refused. I further declare that I have read and agree to abide by the conditions of Licence for a Sexual Entertainment Venue made by Norwich City Council in accordance with Section 2 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should my application be granted.

APPLICANTS ARE INFORMED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE, MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE, ON SUMMARY CONVICTION, TO A FINE NOT EXCEEDING £20,000.

Signature 

Name of Signatory Simon Goodings

Designation of Signatory Company Director

Date 26/4/17



NOTE:

1. It is proposed that applications received from premises which are providing sexual entertainment will all be considered by the council's Licensing committee in June 2017. In the case of an incomplete application form, the Licensing Section will contact you for additional information to enable the application to be processed. Please refer to the Council's policy for Sexual Entertainment Venues which is enclosed.
2. Tacit Consent will not apply as it is in the public interest that the authority must process your application before it can be granted. If you have not heard from the Council within a reasonable period of time, please contact us using the contact details below.
3. THE NOTICE OVERLEAF MUST BE PUBLISHED IN A LOCAL NEWSPAPER CIRCULATING WITHIN NORWICH, NO LATER THAN 7 DAYS AFTER THE DATE OF YOUR APPLICATION.
4. THE NOTICE OVERLEAF, OR ONE IN A SIMILAR FORM, MUST BE DISPLAYED CONTINUOUSLY, ON THE PREMISES TO BE LICENSED, FOR A PERIOD OF 21 DAYS BEGINNING WITH THE DATE OF YOUR APPLICATION ON OR NEAR THE PREMISES AND IN A PLACE WHERE THE NOTICE MAY CONVENIENTLY BE READ AT ALL TIMES BY THE PUBLIC PASSING BY.

Norwich City Council
Citywide Services
Public Protection (Licensing)
City Hall
St Peters Street
Norwich NR2 1NH

01603 212761

licensing@norwich.gov.uk

CERTIFICATE

(To be completed by all applicants)

I certify that a copy of the notice overleaf was displayed on the premises to be licensed, on or near the premises, in a place where the notice may conveniently be read by the public, for a period ofdays,

From (date) to (date)

Signature of applicant

Date

NOTE: AFTER THE NOTICE HAS BEEN DISPLAYED FOR 21 DAYS, THIS FORM MUST BE COMPLETED, SIGNED AND RETURNED TO THE LICENSING TEAM, AT THE ADDRESS OVERLEAF.

YOU SHOULD ALSO ATTACH A COPY OF THE NOTICE WHICH APPEARED IN A LOCAL NEWSPAPER, CIRCULATING WITHIN NORWICH, TO THIS FORM.



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SECTION 2, SCHEDULE 3: CONTROL OF SEX ESTABLISHMENTS

Notice of Application for a Licence for a Sexual Entertainment Venue

NOTICE IS HEREBY GIVEN THAT I, Simon Goodings / Darren Crawford T/as Dazmonda Ltd

..... (full name)

APPLIED ON 26th April 2017 (date)

TO NORWICH CITY COUNCIL, IN RESPECT OF THE PREMISES KNOWN AS

..... Sugar and Spice

OF 39 Prince of Wales Road Norwich Norfolk NR1 1BG (address)

UNDER THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, FOR THE GRANT
~~OR RENEWAL OR TRANSFER~~ (DELETE AS APPLICABLE) OF A SEX ESTABLISHMENT LICENCE
FOR:

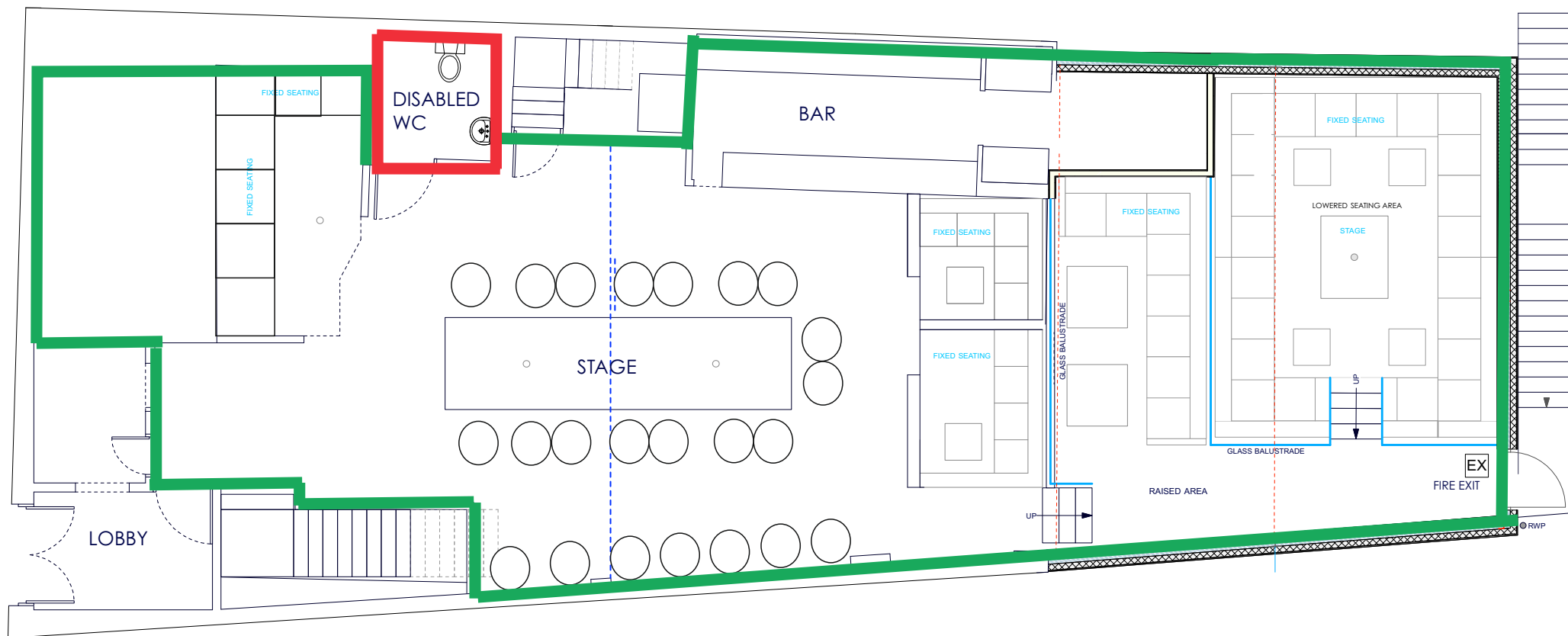
A SEXUAL ENTERTAINMENT VENUE

FOR THE INTENDED DAYS AND OPENING HOURS OF Monday to Friday 9pm till 6am Saturday 8pm till 6am
..... and Sunday 9pm till 4am

ANYONE WISHING TO MAKE **OBJECTIONS** TO THIS APPLICATION MUST DO SO IN WRITING TO:

Norwich City Council
Citywide Services
Public Protection (Licensing)
City Hall
St Peters Street
Norwich NR2 1NH

NO LATER THAN 28 DAYS AFTER THE DATE OF THE APPLICATION, STATING THE GROUNDS FOR
OBJECTION.

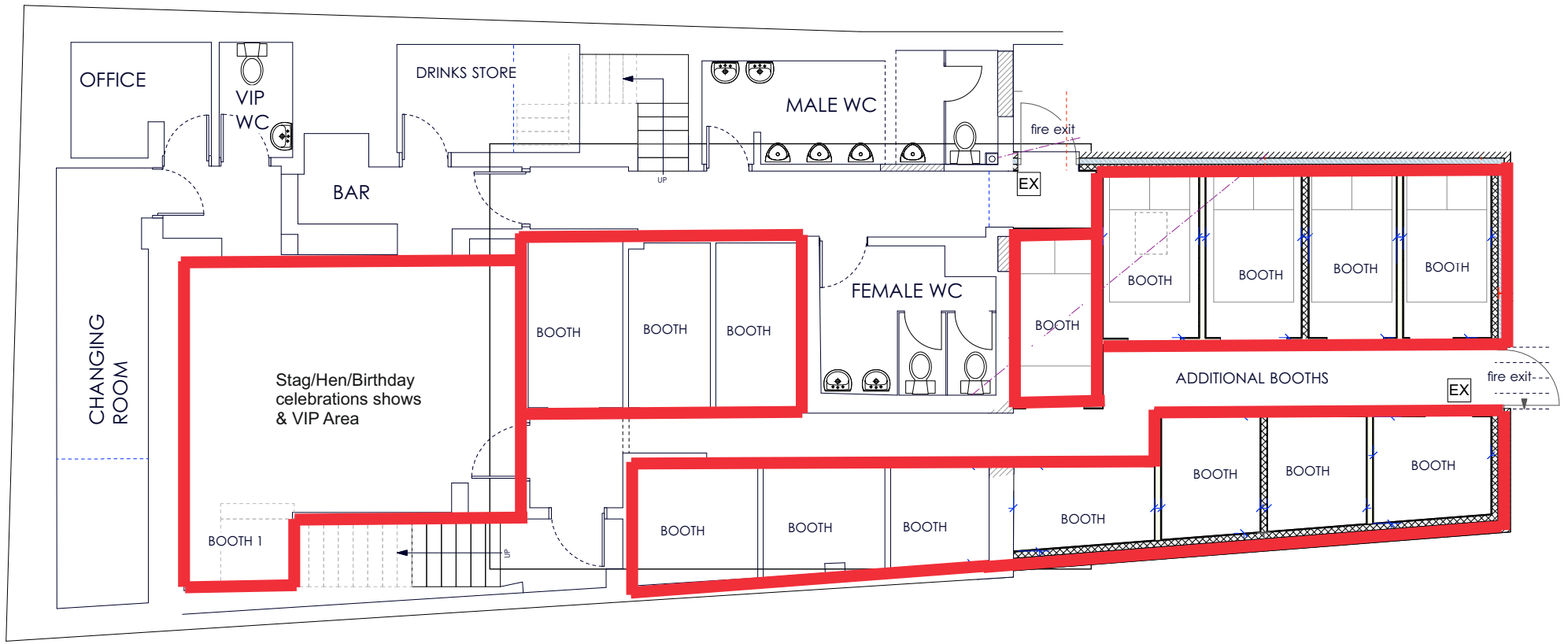


GROUND FLOOR

█ Licenced Area for:-

█ Licenced area for Private dances (fully nude)

- Topless performances (No Nudity)
- Lap Dance
- Stage Show
- Table Dance
- Pole Dance
- Chair Dance
- Topless Waitress Service performed by dancer



LOWER GROUND FLOOR

Licenced area for Private dances (fully nude)

SUGAR & Spice

AMERICAN STYLE TABLE DANCING

AMERICAN STYLE TABLE DANCING

SUGAR & Spice

SUGAR
American Style Table Dancing & Spice

SUGAR
American Style Table Dancing & Spice

BEST ONE FONE
88
NORWICH
ACCREDITED VENUE



Attachment 1

Please refer to the attached floor plans showing the licensed areas

Sugar & Spice is currently voted the number 1 table dance club in the world (as of March 2017)

<https://worldsbeststripclubs.com/top-100>

There are 2 owners involved with Sugar & Spice

Mr Simon Goodings, who had been involved in the night time economy in Norwich for over 30 years owning bars and night clubs in Norwich. He also has many years' experience managing one of the largest and most successful clubs in the city.

Mr Daz Crawford, who has also been heavily involved with the Norwich night time economy and entertainment for 25 years, himself once a dancer/performer with a well-known male review show and performed regular solo shows both in the UK and Europe and who is currently an actor appearing as a major character in many popular Movies and TV shows such as James Bond, Thor, Blade 2, Marvel's Agents of Shield N.C.I.S and many more.

Sugar & Spice is East Anglia's first and only American Style Table Dancing Club opening in 2010. Our objective from day one, was to radically move away from the traditional dark and seedy, behind closed doors style of 'Gentlemen's club' which automatically had a negative reputation from people who would presume and judge.

To do this we introduced a modern approach in a well-lit and transparent venue where no one is discriminated against and where customer service is president. We Offer a whole new class and unique experience of quality, professional entertainment and relaxed atmosphere culminating with a 5 star plus service. We are extremely proud that to date over 30% of our customer base is female.

Sugar & Spice is currently the only table dance club in Norwich that has access for wheelchairs.

Due to it's massive popularity a recent (2016) £250,000 'wow factor' extension was added and currently we have over 40 people working full time.

The relaxed and ambient atmosphere allows for a chilled experience whether alone, in a group or couples, we have even had a wedding reception reserve a VIP space for the whole evening.

What is unusual with Sugar & Spice, whereas typical table dance clubs are usually visited by customers on special occasions, we have many regulars that will frequent the club 4 or 5 times a week using the venue as their 'local'. Having a social drink but not necessarily having any private dances. They simply come to relax have fun and enjoy the safe, pleasant, atmosphere.

The club is run in a highly professional manner where dancers are intensively interviewed, with a strict code of conduct, followed with an induction on how to improve and grow as a professional entertainer, performer and dancer, to an extremely high standard, then ongoing one on one discussions and monthly group meetings with all staff.

We encourage performers to be involved with the local community as much as possible and have raised thousands of pounds for breast cancer and have just completed a fun run, again, for breast cancer.

We believe the success of Sugar & Spice is down to the interaction with customers, a strong ethic in professionalism, having a communicative and positive relationship with the police and local council.

We are also a 'best bar none credited venue' and also attend Norwich's Late Night Norwich committee meetings.

Sugar & Spice is a premium adult entertainment venue where we have set out the building and the whole experience within the club with quality of service and the comfort of our customers in mind. From the moment of arrival at the entrance, the customer can expect a warm welcome from the specifically selected door supervisors, onto the receptionist, followed by the waitress then bartender and finally the dancer/performers. All staff have been trained to work collectively to deliver our well managed and strictly regulated adult entertainment as part of the stay within a relaxing and sociable environment. Performances include stage shows, pole dancing, lap dancing and private dancing. Our floor plan and Code of Conduct show in detail how this is organised and where different types of performance take place so that we can maintain the broad appeal of our venue working within this philosophy.

In the following notes we will refer to the standard conditions (Appendix D of Norwich City Council Sex Establishment Policy Statement).

Paragraph 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 by a dedicated member of staff or security personnel at all times that the premises are in operation.'*

Sugar & Spice has the right number of SIA Door Supervisors to effectively manage entry, the main ground floor, to provide physical presence in the basement around the booths and private dance areas and to manage dispersal. We are experienced at assessing risk and have agreed with the Police the contingencies necessary for events or unexpectedly high customer numbers at the door.

Our venue is fitted with high specification CCTV allowing surveillance of all areas of the club including the booths where private dances take place. Images from the booths are on view at a monitor behind the bar (screened from customers) and in the Office. Images from other cameras are also on view in the office as well as by the Door Supervisor(s) on monitors near the entrance. When dance performances are taking place, CCTV is monitored from at least 3 positions within the venue. They are of course recorded. In addition, our CCTV system can be remotely monitored and we exercise further management control with either Managing Directors observing the business operation via smartphone and laptop. We manage the operation of the club in real time. Should there be a circumstance with a potential risk to safety and security of performers then we would mitigate against this directly. This might mean that the Duty Manager stays in the Office and dedicates to monitoring CCTV – this might mean relocating a Door Supervisor into a particular place inside the venue. In practice, there is little benefit of having a person permanently dedicated to monitoring CCTV. Doing so actually makes management of the venue more problematic and is in effect a waste of a member of staff that might be better utilised elsewhere for safety reasons.

We request that the word '**dedicated**' is removed from this condition.

Alternatively, this might be worded, '**CCTV must be capable of monitoring the whole of the premises at all times when they are in operation. In particular, private booths or rooms to ensure the safety and security of performers and other persons within the premises. CCTV to be monitored when private booths are in use by either; an SIA registered Door Supervisor, a member of staff on the premises or a CCTV operator.'**

Paragraph 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. 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.'*

As mentioned above, we would want to have flexibility to place Door Supervisors or task members of staff so that we can respond to changing circumstances when we are open. Any condition that forces us to dedicate resources to specific tasks limits this flexibility. In some situations we would

prefer to use the Duty Manager to continually monitor Performers and customers in private booths from the Office via CCTV - rather than tie up a Door Supervisor there should they have to respond to a call to support the entry Team. All private booths have an alert system with a phone and panic button as an additional safeguard for Performers as well as CCTV coverage. The layout of the basement area is such that, even when a Door Supervisor is called away, there are other members of staff, at the bar or also in the performance area who are at the other side of the entrance to each booth.

The private booths have fine link coloured metal chains separating them from the hall area. These look good and provide a virtual separation. People know where the booth starts but can see inside.

We ask that this condition is redrafted as follows;

‘All booths, cubicles or VIP areas used for private dances must not have closing doors, curtains or coverings such that they are not easily visible to supervision. All booths, cubicles and VIP areas used for private dances must be monitored by either a SIA registered door supervisor, a member of staff who has direct contact with SIA registered door supervisors working on the premises or a CCTV operator, at all times the booths/cubicles/VIP areas are in use.’

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

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

Lap dancing is an activity in which a usually nude or semi-nude performer sits and gyrates on the lap of a customer (*Wikipedia*). In reality, Sugar & Spice Performers are dancers. They perform along with music and seated activity is part of this, as is standing and moving in time to the music. Like all Norwich adult entertainment venues, ours has been set out with beds for these performances. A ‘bed’ is a 5ft wide rectangular flat surface with a thin covering of foam and material for lying on. This is where the customer would lie down during the performance. To date this has been accepted by the Authority and it was a significant part of our £250K investment in development within the variation to the Premises Licence last year.

Can we suggest that paragraph 53 is rewritten as follows please;

Remove (5) *‘Performers must not place their feet on the seats’*. We believe that the reason this was introduced was to prevent footwear damaging the furniture. With the other proposed conditions below we feel that the dance performances can go ahead with appropriate discretion.

Suggested wording, 53. ***'The Licensee must ensure that during the performance of a table, lap, sofa or bed dance:***

- (1) Customers must be seated or lying with their hands by their sides or behind their head before a dancer can start a dance*
- (2) Customers must remain seated or lying during the entire performance of the dance*
- (3) Performers must not sit on or straddle the customer when naked*

Currently 53 (3) says, *'for the purpose of restraint only, Performers may only touch a customer above the customer's chest (excluding the head) with their hands only'*. What this means is that the only time a Performer should touch a customer is in the unlikely event that they need to restrain them. If this happens the only permitted restraint is by the neck. We suggest that **this condition might be removed.**

In addition, we ask that the following conditions be considered so that we can continue our business acting with social responsibility while still competing with other venues commercially.

Paragraph 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.'*

The way that this is written implies that our business is concerned with selling or soliciting sex rather than adult entertainment. This is not the case and we would hope that the Authority might allow us the opportunity to attract potential customers from the night-time crowd in a balanced and appropriate way.

Can we suggest a condition worded as;

'Promotional flyers can only be used after the design of the flyer has approval from the Police/Norwich City Council.

Promotional advertising will only take place after 9pm by fully clothed staff.'

Paragraph 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 establishment. The Register is to be completed each day within 30 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'.*

We recognise the good practice in knowing the identity of workers and who is at work on the premises at any given time. We will always have a process for signing in as well as a procedure for briefing Performers before they begin dancing. There would be potential safety and personal security risks of having people disclose their home addresses openly or on a daily basis. This is private information. The important thing is that there is an up to date record of the addresses and

that this can be disclosed at short notice to the authorities. We suggest that this condition might be reworded;

'The Licensee shall maintain an up to date 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 establishment. There will be a daily Register of employees and members of staff on duty showing who are working. This Register is to be completed each day within 30 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'.

Paragraph 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'.*

We agree with the rationale for this condition. Occasionally we will entertain stag, hen, birthday and celebration parties at Sugar & Spice. Currently we would offer a responsible person in such a party of guests that the subject might be placed in handcuffs, which are a 'form of restraint'. However, this is for the entertainment of our guests for fun and enjoyment rather than for any sexual motive.

Paragraph 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.'*

When our Performers go outside they will be fully dressed. They do not appear any different to many revellers passing by on Prince of Wales Road and they certainly will not be performing in any way. Like other staff, some Performers are smokers and the only area that they can use is the area just outside the entrance.

We recommend a rewording of this condition as follows;

'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. Performers are to be fully dressed when outside the premises at all times.'

Paragraph 45. *'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 by the Council'.*

As stated, Sugar & Spice has areas set out for private dances which have 'beds' where customers would be lying down. As with seating, the customer will always have their hands by their sides or behind their head prior to the start of the performance.

To fit in with our other recommended conditions we propose that this condition might be reworded; ***'Performers shall only perform to customers in specified designated areas or in such areas of the licensed premises as may be agreed in writing by the Council.'***

Paragraph 49. *'Performers may not accept any telephone number, e-mail address, address or contact information from any customer'.*

We do not allow Performers to accept telephone/contact details from customers. However, some customers carry business cards and can be persistent in wanting to hand these over. At the end of each evening Performers pass on any contact information to the Duty Manager. This is not for any other reason but to maintain the friendly balance with customers and minimise tension.

We suggest a rewording of this condition as follows;

'Performers should try and make it clear to customers that they may not accept any telephone number, e-mail address or contact information from them. Performers must not retain any business card or similar in the event that any such information is given to them'.

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

Female toilets are covered by CCTV. The toilets are effectively under constant surveillance because of their position in relation to the Bar and staff positioned in the basement. We believe that female Performers should be allowed to use the female toilets along with other female customers.

We suggest that the final part of this paragraph **be removed** from the condition, *'(this excludes the toilets as Performers must not use the public toilets whilst open to the public).'*

Paragraph 56. *'At all times there must be no physical contact between customers and employees or other persons working within 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 duty.'*

Many table dance venues do not have regular customers but Sugar & Spice does. Some regard it as the equivalent of their local pub coming in several times a week. Customers are people with normal social interactions including shaking hands, hugging or a kiss on the cheek.

To recognise this we suggest the addition of the following wording to this condition,

- ***'A social greeting such as hand shake, hug or kiss on the cheek'.***

Street Map



Sugar and Spice







NORWICH City Council

Premises Licence Summary

Premises Licence Number

16/00558/PREM

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code	
Sugar & Spice 39 Prince Of Wales Road Norwich NR1 1BG	
Telephone number	01603 611060

Where the licence is time limited the dates
Not applicable

Licensable activities authorised by the licence.
Ent like live/recorded music/dance - Activity takes place indoors Films - Activity takes place indoors Late Night Refreshment - Activity takes place indoors Live Music - Activity takes place indoors Performances of Dance - Activity takes place indoors Sale by Retail of Alcohol - Activity takes place indoors Recorded Music - Activity takes place indoors

The times the licence authorises the carrying out of licensable activities		
Ent like live/recorded music/dance	Saturday	10:00 - 06:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Ent like live/recorded music/dance	Sunday	10:00 - 03:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Ent like live/recorded music/dance	Monday to Friday	10:00 - 05:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Films	Saturday	10:00 - 06:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Films	Sunday	10:00 - 03:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Films	Monday to Friday	10:00 - 05:00

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Late Night Refreshment	Sunday	23:00 - 03:30
------------------------	--------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Late Night Refreshment	Monday to Saturday	23:00 - 05:00
------------------------	--------------------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Live Music	Saturday	10:00 - 06:00
------------	----------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Live Music	Sunday	10:00 - 03:00
------------	--------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Live Music	Monday to Friday	10:00 - 05:00
------------	------------------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Performances of Dance	Saturday	10:00 - 06:00
-----------------------	----------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Performances of Dance	Sunday	10:00 - 03:00
-----------------------	--------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Performances of Dance	Monday to Friday	10:00 - 05:00
-----------------------	------------------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Sale by Retail of Alcohol	Saturday	10:00 - 04:00
---------------------------	----------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Sale by Retail of Alcohol	Sunday	10:00 - 03:00
---------------------------	--------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Sale by Retail of Alcohol	Monday to Friday	10:00 - 04:00
---------------------------	------------------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Recorded Music	Saturday	10:00 - 06:00
----------------	----------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Recorded Music	Sunday	10:00 - 03:00
----------------	--------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Recorded Music	Monday to Friday	10:00 - 05:00
----------------	------------------	---------------

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

The opening hours of the premises

Monday	10:00 - 05:30
Tuesday	10:00 - 05:30
Wednesday	10:00 - 05:30
Thursday	10:00 - 05:30
Friday	10:00 - 05:30
Saturday	10:00 - 06:30
Sunday	10:00 - 03:30

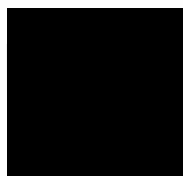
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption both on and off the Premise

Name, (registered) address of holder of premises licence

Mr Simon Goodings

**Registered number of holder, for example company number, charity number (where applicable)****Name of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Mr Simon Goodings

State whether access to the premises by children is restricted or prohibited

Persons under 18 not to be permitted entry to that part of the premises where any adult entertainment is being performed.



Premises Licence

Premises Licence Number

16/00558/PREM

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Sugar & Spice
39 Prince Of Wales Road
Norwich
NR1 1BG

Telephone number 01603 611060

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Ent like live/recorded music/dance - Activity takes place indoors
Films - Activity takes place indoors
Late Night Refreshment - Activity takes place indoors
Live Music - Activity takes place indoors
Performances of Dance - Activity takes place indoors
Sale by Retail of Alcohol - Activity takes place indoors
Recorded Music - Activity takes place indoors

The times the licence authorises the carrying out of licensable activities

Ent like live/recorded music/dance Saturday 10:00 - 06:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Ent like live/recorded music/dance Sunday 10:00 - 03:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Ent like live/recorded music/dance Monday to Friday 10:00 - 05:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Films Saturday 10:00 - 06:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Films	Sunday	10:00 - 03:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Films	Monday to Friday	10:00 - 05:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Late Night Refreshment	Sunday	23:00 - 03:30
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Late Night Refreshment	Monday to Saturday	23:00 - 05:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Live Music	Saturday	10:00 - 06:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Live Music	Sunday	10:00 - 03:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Live Music	Monday to Friday	10:00 - 05:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Performances of Dance	Saturday	10:00 - 06:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Performances of Dance	Sunday	10:00 - 03:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Performances of Dance	Monday to Friday	10:00 - 05:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Sale by Retail of Alcohol	Saturday	10:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Sale by Retail of Alcohol	Sunday	10:00 - 03:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Sale by Retail of Alcohol	Monday to Friday	10:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Recorded Music	Saturday	10:00 - 06:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Recorded Music	Sunday	10:00 - 03:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.		
Recorded Music	Monday to Friday	10:00 - 05:00

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

The opening hours of the premises

Monday	10:00 - 05:30
Tuesday	10:00 - 05:30
Wednesday	10:00 - 05:30
Thursday	10:00 - 05:30
Friday	10:00 - 05:30
Saturday	10:00 - 06:30
Sunday	10:00 - 03:30

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 01 January.

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption both on and off the Premise

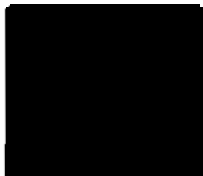
State whether access to the premises by children is restricted or prohibited

Persons under 18 not to be permitted entry to that part of the premises where any adult entertainment is being performed.

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Simon Goodings



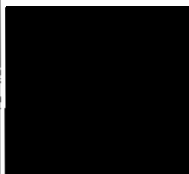
Electronic Mail



Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Simon Goodings



Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Party Reference: 05/01703/PERSTR

Licensing Authority: Norwich City Council

Annex 1 – Mandatory conditions

- 1 No supply of alcohol may be made under a premises licence -
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3 No moving picture shall be exhibited unless: -
 - (i) it has received a "U", "PG", "12A", "15" or "18" certificate of the British Board of Film Classification; or
 - (ii) it is a current newsreel which has not been submitted to the British Board of Film Classification; or
 - (iii) the permission of the Licensing Authority is first obtained and any conditions of such permission are complied with.
- 4 No person under the age of 18 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received an "18" certificate from the British Board of Film Classification.
- 5 No person under the age of 15 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received a "15" certificate from the British Board of Film Classification.
- 6 No person under the age of 12 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received a "12A" certificate from the British Board of Film Classification.
- 7 Where, at specified times one or more individuals must be at the premises to carry out a security activity each such individual must be licensed by the Security Industry Authority.
- 8
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 9 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 10
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

- (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
- (a) a holographic mark or
 - (b) an ultraviolet feature.
- 11 The responsible person shall ensure that:
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
- (i) beer or cider half pint
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
- 12 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 13 For the purposes of the condition set out in paragraph 1:
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula:

$$P = D + (D \times V)$$

Where:

 - (i) P is the permitted price
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:
 - (i) The holder of the premises licence
 - (ii) The designated premises supervisor (if any) in respect of such a licence, or
 - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 14 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
- 15 Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
- 16 Where the film classification body is specified in the licence, unless subsection (12)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
- 17 Where
- (a) The film classification body is not specified in the licence, or
 - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,
- admission of children must be restricted in accordance with any recommendation made by that licensing authority.
- 18 In this section "children" means any person aged under 18; and

"film classification body" means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

19 Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of the Act.

20 But nothing in subsection (1) requires such a condition to be imposed:

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or

(b) in respect of premises in relation to:

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

21 For the purposes of this section:

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 – Conditions consistent with the Operating Schedule

1 General - all four licensing objectives

2 All bar staff will be trained in the basic law relating to the safe/supply of alcohol and a record of who has received this training will be kept at the premises.

3 There will be a 30 minute "chill out" period after all licensed activities cease (except late night refreshment) before the premises are closed.

4 The Prevention of Crime and Disorder

5 The Licensee, that is the person in whose name the premises licence is issued, shall ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the Licence and for preventing crime and disorder.

6 All members of staff at the premises shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 21 years and who is seeking to purchase or consume alcohol on the premises.

7 A suitably worded sign of sufficient size and clarity must be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.

8 A conspicuous notice must be displayed on or immediately outside the premises, or which is immediately adjacent to the premises, which gives details of any restrictions relating to the admission of children to the premises.

9 No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle whether empty or containing any beverage.

10 The Licensee will ensure that there are sufficient staff on the premises to be able to monitor the behaviour of customers whilst inside the premises and take action to alert the Police and prevent problems escalating.

11 CCTV will be installed covering entrances, bar and dance areas, maintained in good order, and recordings will be kept for a minimum of 31 days for inspection by the Police or other responsible authorised authority.

12 Door supervisors will be employed during the late evening and early hours of the morning following proportionate to the perceived risk.

13 An incident book will be provided and available for inspection by the Police and responsible authorised authorities.

14 The Licensee or a responsible person will monitor patrons leaving the premises, especially during the terminal hour to assist in a quiet and orderly dispersal of patrons.

15 A minimum of 2 SIA registered door supervisors will be employed from opening until close of business every Friday and Saturday night. On other nights, a minimum of 1 SIA will be employed from opening until close.

16 There shall be in place, a Code of Conduct for the striptease performers. Each performer is to sign a copy of the code of conduct before being allowed to commence dancing at the premises and this is to be available on site to Police or Licensing Officers on request. A copy of the Code of Conduct will be submitted to the Police and Licensing Authority.

17 The premises will use the link radio scheme (Alert Project 150) operating in the City Centre Night Time Economy to report incidents of disorder at the premises. Use of the link radio does not negate responsibility of the venue to also report incidents to Police via other channels if a Police response would be reasonably required. (This scheme is primarily intended as an information sharing mechanism between premises i.e. details of any individuals ejected or turned away from the venue). The venue will ensure that all subscription charges are paid for the duration of the scheme. This condition is strictly only enforceable whilst the terms and conditions of Project 150 are available.

18 There will be no entry to the premises by customers, between 0345 and 1000 hours on any day, except for existing customers returning from a defined smoking area adjacent to the premises.

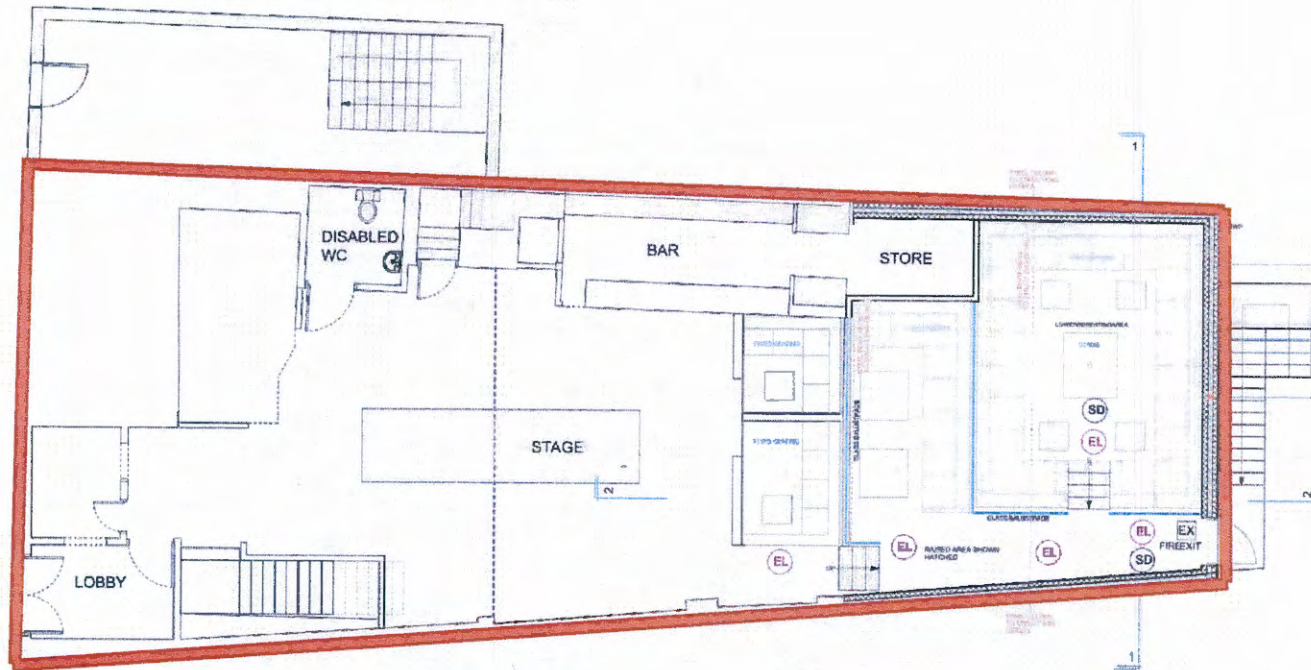
19 Public Safety

20 The provision of the Regulatory Reform (Fire Safety) Order 2005 apply to these premises and accordingly all fire and health & safety risk assessments will be fully implemented.

21 The Prevention of Public Nuisance

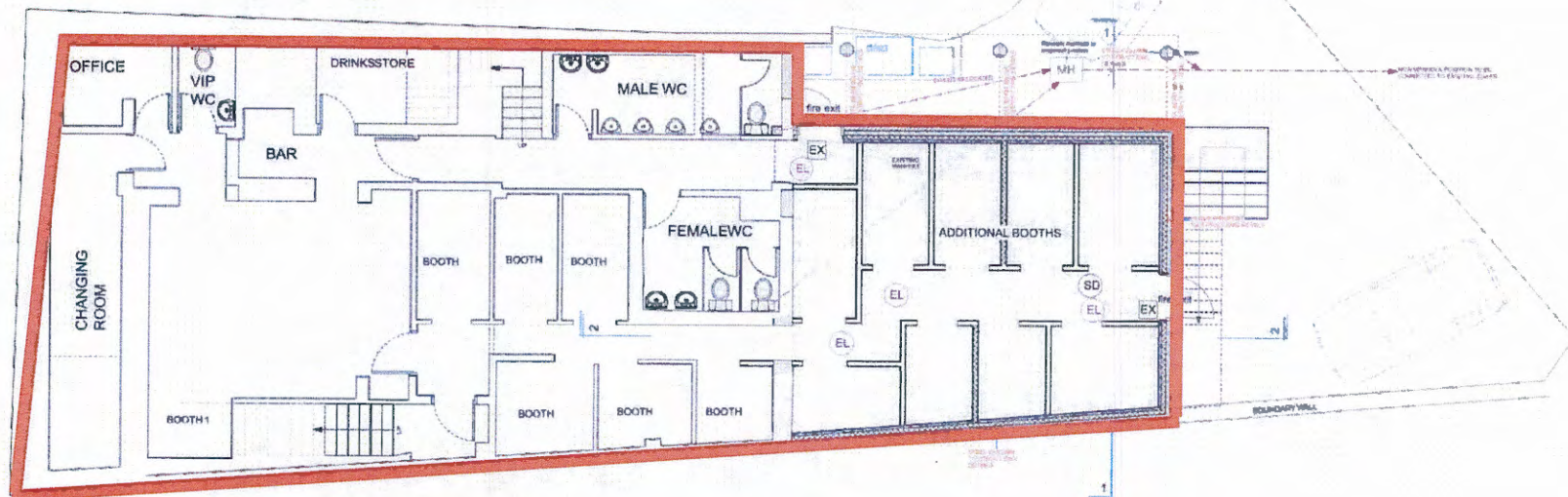
22 Internal and external lighting provided for the purpose of customer and staff safety and for the security of the premises must be so positioned to not cause nuisance to neighbouring or adjoining properties.

- 23 Premises must remove their waste and refuse in a timely manner to a licensed waste disposal facility.
- 24 An adequate number of staff must monitor the activity of persons leaving the premises and remind them of their public responsibilities where necessary.
- 25 Volume levels from licensable music, both live and recorded, will be monitored by responsible persons throughout the period both inside and outside the premises with particular regard to excessive noise to neighbouring properties.
- 26 Doors (except for access and egress) and windows will be kept closed when licensable music is being played.
- 27 **The Protection of Children From Harm**
- 28 All members of staff at the premises shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 21 years and who is seeking to purchase or consume alcohol on the premises.
- 29 A suitably worded sign of sufficient size and clarity must be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
- 30 No children under the age of 18 years to be allowed access to that part of the premises during any time when an activity or entertainment of a sexual nature is being provided.



RECEIVED
 18 MAR 2016
 LICENSING OFFICE

 Licensed Area





NORWICH
City Council

SEX ESTABLISHMENT

POLICY STATEMENT

INCORPORATING GUIDANCE AND

STANDARD CONDITIONS

3.0 Scope

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

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

3.3 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.

3.4 When considering applications for a Sexual Entertainment Venue licence, in respect of premises that have previously operated without the requirement for a licence prior to the adoption of the legislation, in addition to this policy document the Licensing Authority must have regard to the Home Office guidance issued in March 2010 entitled "Sexual Entertainment Venues – Guidance for England and Wales."

4.0 Policy and Procedures statement

4.1 This Policy became effective on 11 December 2014 and supersedes all previous licence conditions adopted by Norwich city council.

4.2 The council 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.

SEX ESTABLISHMENT LICENSING

5.0 Types of Sex Establishment

5.1 There are 3 types of sex establishments; Sex Shops, Sex Cinemas and Sexual Entertainment Venues.

5.2 Not all of these premises automatically require a licence. This is due to certain provisions and exemptions within the legislation. The criteria for requiring a licence is laid out below.

5.5 Sexual Entertainment Venue

The legislation defines a Sexual Entertainment Venue as:

"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

(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.”

9.0 Determination of applications

9.1 Section 12 (1)(a-e) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 prohibits the Licensing 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.”

Please note there is no right of appeal against refusal on these grounds.

9.2 If none of the above applies to the applicant and no objections have been received and there are no other statutory grounds for refusal, including that the application does not exceed any permitted numbers, the application will be granted by way of delegated authority. However if any objections have been received, or if there are concerns regarding the characteristics of the locality, the application will be referred to the Council's Licensing Committee for a hearing of the application.

9.3 Section 12 (3)(a-d) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 provides that the Licensing Authority may refuse an application for the grant or renewal of a licence on one or more of the following grounds:

“

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewed or transfer of such a licence if he made the application himself;
- (c) that the number of sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made (determined) is equal to or exceeds the number which the authority consider is appropriate for that locality;
- (d) that the grant or renewal of the licence would be inappropriate, having regard –
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made. “

An application for the transfer of a licence can only be refused by virtue of the (a) & (b) above.

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

9.5 The Licensing Authority will give clear reasons for its decisions.

9.6 When issuing a Sex Establishment Licence the Licensing 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.

9.7 It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.

9.8 Details of the standard conditions relating to each type of licence are contained in Appendices B-D. Should these standard conditions be amended at any time in the future, they would apply to all licences already issued as if the conditions had been in place at the time they were granted..

9.10 Duration of licence

The Licensing Authority will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of one year to provide certainty to those operating businesses, unless the licence is revoked during this period.

9.11 Right to appeal a decision

If an application is refused, or revoked, following a hearing, then the applicant 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 is notified of the Licensing Authority's decision. It should be noted that a fee may be payable to the magistrates to lodge such an appeal. Applicants 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 that you cannot appeal against the Licensing 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
- the grant of the licence would be inappropriate 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. If you do not agree with the decision made by the magistrates' court, you can appeal to the local Crown court. The decision made by the Crown court will be final. The Licensing Authority must comply with a decision made by the Magistrates or Crown court.

11.0 Definitions & Guidance Documentation

11.1 Relevant Localities

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).

11.2 Numerical Limits

The Licensing 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 which we consider appropriate for that locality. This number can be 'nil'. The Council recognises that different parts of the City have different characteristics and therefore each application should be judged on its own merits.

SEXUAL ENTERTAINMENT VENUES

11.9 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 (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.

In deciding whether entertainment is "relevant entertainment" the Licensing Authority will judge each case on its merits, but will generally apply to:

- (1) lap dancing
- (2) pole dancing
- (3) table dancing
- (4) strip shows
- (5) peep shows
- (6) live sex shows

Adult entertainment not classed as "relevant entertainment" may still require regulation under the Licensing Act 2003.

11.10 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.

For further information in relation to regulation of Sexual Entertainment Venues please refer to the Home Office Guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales”.

11.11 Suitable number of trained staff

Conditions require that 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 customers, performers and persons working in the premises.

A suitable and sufficient number should be determined by carrying out a risk assessment of all activities, design of the premises (including accessibility to all areas), and number of performers. This should be linked to the capacity of the premises.

11.12 Adequate non-public changing rooms for performers

Conditions require that the Licensee shall provide adequate non-public changing rooms for performers. This means that there should be separate changing rooms for all genders and that different genders should not share changing rooms at the same time. Non-public means that the Licensee should ensure that the public do not have access to these changing facilities at any time and appropriate measures should be employed to ensure this.

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.
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.

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 by a dedicated member of staff or security personnel 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

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

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.

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.

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 56 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

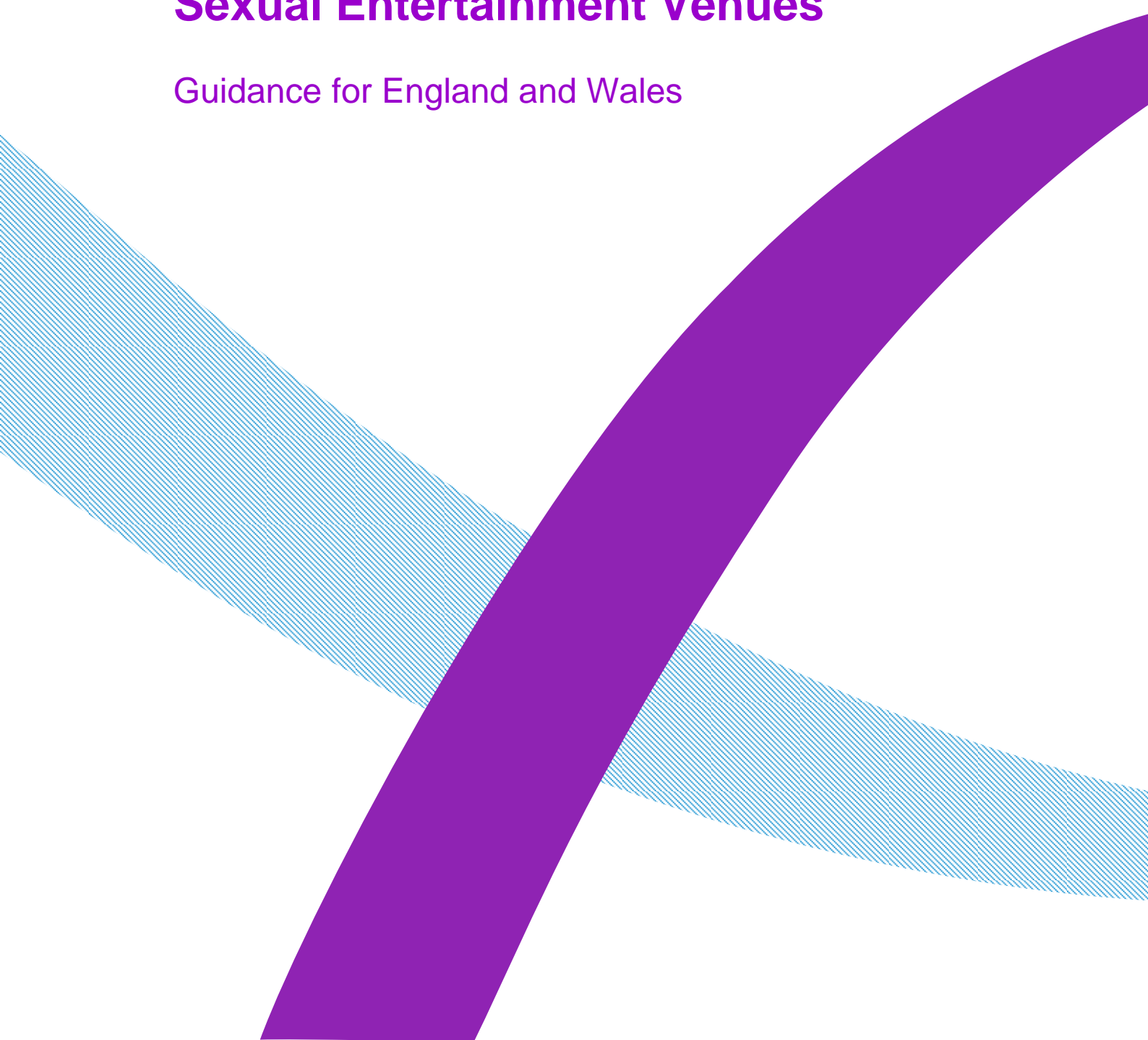
61. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save 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.



Sexual Entertainment Venues

Guidance for England and Wales



Contents

Ministerial Foreword	4
1. Introduction	5
Definitions	5
Policing and Crime Act 2009	5
The Guidance	5
2. Policing and Crime Act 2009	7
Meaning of Sexual Entertainment Venue	7
Nudity	8
The Organiser	8
Spontaneous Entertainment	9
Premises that are not Sexual Entertainment Venues	9
Amendments to the Licensing Act 2003	10
Consultation with Local People	11
3. Local Government (Miscellaneous Provisions Act) 1982	13
The Appropriate Authority	13
Committee or Sub-Committee	13
Adopting the Provisions	14
Requirement for a Sex Establishment Licence	15
Premises that are Deemed to be Sexual Entertainment Venues	15
Notices	16
Application Forms	16
Single Point of Contact	17
Fees	17
Objections	18
Hearings	18
Refusal of a Licence	19
Relevant Locality	20
Licence Conditions	22
Duration of Licences	23

Appeals	23
Licensing Policies	23
Offences	24
Provisions Relating to Existing Premises	25
The Services Directive	25
 4. Transitional Arrangements	 27
Transitional Period	27
Existing Operators	27
New Applicants	28
Determining Application Received Before the 2nd Appointed Day	28
Determining Application Received After the 2nd Appointed Day	29
Outstanding Application	29
Existing Licence Conditions	30
ECHR Considerations	31
Changes to licensing policies	32
London	32
Sex Encounter Establishments	32
Hostess Bars	33
Soliciting for Custom	33
 Annex A: Guide to Transitional Period and Existing Operators	 35
Annex B: Guide to Transitional Period and New Applicants	36

MINISTERIAL FOREWORD



In September 2008, the previous Home Secretary announced the Government's intention to give local people greater say over the number and location of lap dancing clubs in their area. This followed a consultation with local authorities which highlighted concerns that existing legislation did not give communities sufficient powers to control where lap dancing clubs were established.

In order to address these concerns, section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities in England and Wales the power to regulate such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

These new measures, which take effect on 6th April 2010 in England and on 8th May in Wales, will, if adopted by local authorities, give local people a greater say over where and how many lap dancing clubs open and operate in their neighbourhoods.

These are important reforms to further empower local communities and the purpose of this guidance is to provide advice to local authorities, operators, local people and other interested parties on the new measures introduced by section 27 and the associated secondary legislation.

Alan Campbell

A handwritten signature in dark ink that reads "Alan Campbell". The signature is written in a cursive style.

Parliamentary Under-Secretary of State for Crime Reduction

March 2010

INTRODUCTION

Definitions

1.1 In this guidance –

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

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

The “2003 Act” means the Licensing Act 2003

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

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

Policing and Crime Act 2009

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

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

The Guidance

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

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

POLICING AND CRIME ACT 2009

Meaning of Sexual Entertainment Venue

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

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

Nudity

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

The Organiser

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

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

Spontaneous Entertainment

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

Premises that are not sexual entertainment venues

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

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

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

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

Amendments to the Licensing Act 2003

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

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

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

Consultation with Local People

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

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

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

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

The Appropriate Authority

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

Committee or Sub-Committee

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

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

Adopting the Provisions

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

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

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

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

Requirement for a Sex Establishment Licence

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

Premises that are deemed to be Sexual Entertainment Venues

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

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

Notices

- 3.13 Applicants for a sex establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made.
- 3.14 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 day beginning with the date the applications was made.
- 3.15 All notices should be in the form prescribed by the appropriate authority and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.
- 3.16 There are similar notification requirements for applications made under the 2003 Act. Where an applicant is making an application under both Schedule 3 and the 2003 Act at the same time they may wish to combine these requirements where permitted.

Application Forms

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

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

Single Point of Contact

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

Fees

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

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

Objections

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

Hearings

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

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

⁴ www.lacors.gov.uk

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

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

Refusal of a Licence

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

A licence must not be granted:

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

3.28 A licence may be refused where:

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

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

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

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

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

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

Relevant Locality

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

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

⁸ Regulation 47

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

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

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

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

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

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

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

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

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

Licence Conditions

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

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

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

Duration of Licences

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

Appeals

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

Licensing Policies

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

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

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

Offences

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

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

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

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

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

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

Provisions Relating to Existing Premises

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

The Services Directive

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

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

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

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

TRANSITIONAL PROVISIONS

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

Transitional Period

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

Existing Operators

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

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

New Applicants

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

Determining Applications Received On or Before the 2nd Appointed Day

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

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

Determining Applications Received After the 2nd Appointed Day

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

Outstanding Applications

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

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

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

Existing Licence Conditions

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

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

ECHR Considerations

- 4.19 The Transitional Order allows local authorities to refuse applications, whether they are from existing operators or new applicants, on one or more grounds set out in paragraph 12 of Schedule 3. When making such decisions, local authorities must take into account any rights the existing operators may have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).
- 4.20 In light of the leading case of *Belfast City Council v Miss Behavin' Ltd* (Northern Ireland)¹² it would be prudent for local authorities to assume that freedom of expression includes the right to use particular premises as sexual entertainment venues and that a person who is denied the right to use his premises as a sexual entertainment venue where he already has a licence to do so under the 2003 Act (or in future under the 1982 Act) has been deprived of possessions. (Some Lords did not decide this point or disagreed that such rights were engaged and therefore it would still be open to local authorities to argue that such rights were not engaged in a particular case). However, in any event, the House of Lords were agreed that such rights would only be engaged at a low level. This led Lord Hoffman to say that if the local authority exercises its powers rationally and in accordance with the purposes of the statutory provisions, it would require very unusual facts for it to amount to a disproportionate restriction on Convention rights.

¹² [2007] UKHL 19

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

Changes to Licensing Policies

- 4.22 Many local authorities who have already adopted Schedule 3 will have published a licensing policy for sex establishments. Such policies may provide a useful guide to potential applicants about whether a particular application is likely to be successful or not.
- 4.23 Upon resolving to adopt the sexual entertainment venue provisions introduced by the 2009 Act, local authorities should ensure that their licensing policies for sex establishments are up to date and reflect the changes introduced by Section 27. This could mean updating existing policies or producing a policy specific to regulation of sexual entertainment venues.

London

Sex Encounter Establishments

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

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

Hostess Bars

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

Soliciting for Custom

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

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

ANNEX A: GUIDE TO TRANSITIONAL PERIOD AND EXISTING OPERATORS

Appointed Days

1st Appointed Day

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

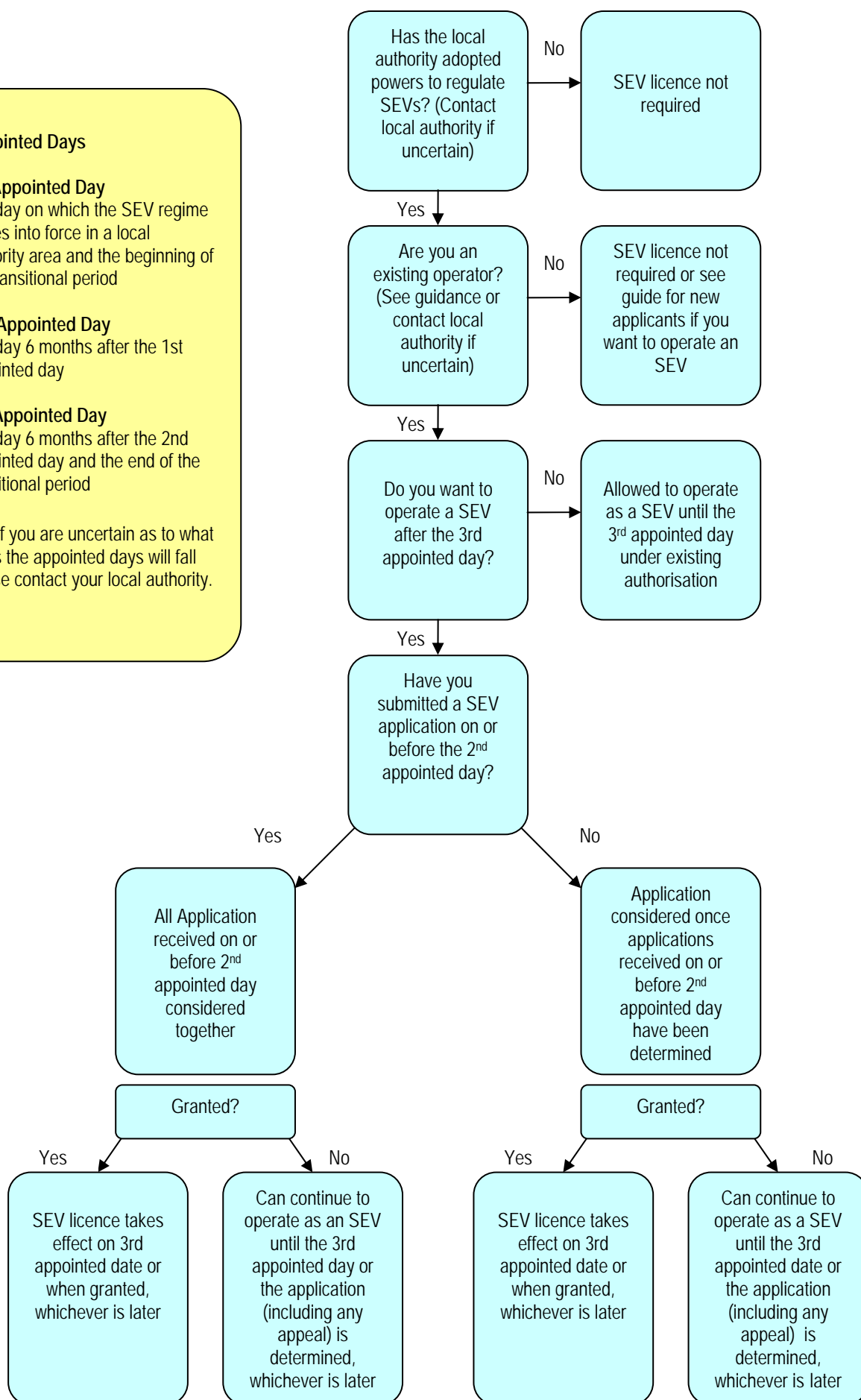
2nd Appointed Day

The day 6 months after the 1st appointed day

3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period

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



ANNEX B: GUIDE TO TRANSITIONAL PERIOD AND NEW APPLICANTS

Appointed Days

1st Appointed Day

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

2nd Appointed Day

The day 6 months after the 1st appointed day

3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period

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

