

# **Licensing Committee**

## **Agenda**

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**Date:** Monday, 13<sup>th</sup> September, 2010  
**Time:** 2.00 pm  
**Venue:** Committee Suite 1,2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide three clear working days' notice, in writing, in order for an informed answer to be given.

4. **Minutes of Previous Meeting** (Pages 1 - 4)

To approve the minutes of the meeting held on 5 July 2010.

5. **Minutes of Licensing Sub-Committees** (Pages 5 - 26)

To receive the minutes of the Licensing Act Sub-Committee meetings held on 7 July 2010, 2 August 2010, 25 August 2010 and 31 August 2010, and the General Licensing Sub-Committee meetings held on 8 July 2010 and 20 August 2010.

6. **Sexual Entertainment Venues - Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (As Amended)** (Pages 27 - 58)

To consider a request to authorise the Licensing Manager to carry out consultation exercises relating to:

- (a) the proposed adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, within the Borough of Cheshire East
- (b) the draft policy on the licensing of sexual entertainment venues (including a set of draft conditions) and the relevant fee levels.

7. **Review of Hackney Carriage Service** (Pages 59 - 64)

To consider a proposal in relation to a comprehensive review of the hackney carriage service across each of the three zones within Cheshire East Borough Council's area.

8. **Renewal of Sex Shop Licence - 74, Edleston Road, Crewe, Cheshire**  
(Pages 65 - 74)

To consider an application for the renewal of the Sex Shop Licence relating to premises at 74, Edleston Road, Crewe.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Committee**  
held on Monday, 5th July, 2010 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor P Whiteley (Chairman)  
Councillor B Dykes (Vice-Chairman)

Councillors H Davenport, S Davies, L Gilbert, J Goddard, M Hardy, A Ranfield,  
C Tomlinson and J Wray

**Officers**

Mrs K Khan, Licensing Solicitor  
Mrs R Graves, Democratic Services Officer

**1 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors T Beard, D Bebbington and  
M Parsons.

**2 DECLARATIONS OF INTEREST**

No declaration of interests were made.

**3 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present.

**4 MINUTES OF PREVIOUS MEETING****RESOLVED:**

That the minutes of the meeting held on 29 March 2010 be approved as a  
correct record and signed by the Chairman.

**5 MINUTES OF LICENSING SUB-COMMITTEES****RESOLVED:**

That the minutes of the Licensing Sub Committee meetings held on  
17 March 2010, 29 April 2010, 5 May 2010, 10 May 2010 and 17 June  
2010 be received.

## 6 REGULATION OF HYPNOTISM - HYPNOTISM ACT 1952

The Committee considered a report detailing information on the proposed conditions to attach to authorisations granted under the provisions of the Hypnotism Act 1952.

The Council had the power to authorise performances of hypnotism within its area, however the Council had not yet adopted conditions which would apply to such authorisations. The power to licence performances of hypnotism was delegated within paragraph 25.2.7 of the Constitution to the Head of Safer and Stronger Communities. This function had subsequently been delegated by the Head of Safer and Stronger Communities to the Licensing Manager.

The proposed conditions, attached as Appendix A to the Report, followed the model scheme detailed in Home Office Circular 39/1996. The proposed conditions were intended to strike a balance between legitimate concerns for public safety and the ability for hypnotists to trade.

Section 4 of the Hypnotism Act 1952 gave a right of entry to police officers in connection with suspected contraventions of the Act. The proposed conditions included a requirement to admit authorised officers of the Licensing Authority to allow for inspection of a premises where hypnotism was being carried out under an authorisation granted by that Licensing Authority.

It was proposed that an application must be made no less than 28 days before the date of the performance. This period was required so that the Licensing Section had sufficient time to consult Cheshire Constabulary on the application. The period for determination of an application would be 28 days (commencing on receipt of a valid application) and if an application was not determined within this period, subject to ability to extend the period for a limited period if the applicant is notified of this prior to the expiry date, the application would be deemed granted.

The Licensing Solicitor confirmed that if the proposed conditions were approved by the Committee, each application for an authorisation would still need to be considered on its own merits.

The draft conditions would be subject to a consultation exercise running over a period of twelve weeks which would include consultation with Cheshire Constabulary, the Health & Safety Section of Cheshire East Borough Council, the Federation of Ethical Stage Hypnotists, Equity and a prospective applicant. In addition, the details of the consultation would be included on the Council's website.

**RESOLVED:** That

- (1) the Licensing Manager be authorised to carry out a consultation exercise, as set out in the Report, in relation to the draft conditions set out in Appendix A.
- (2) in the event either that no consultation responses are received or that the responses received do not suggest amendments to the conditions, the conditions as set out in Appendix A be approved.
- (2) the period of twenty-eight days from receipt of a complete application as the period within an application must be determined be approved and the position in relation to 'tact authorisation' be noted.

The meeting commenced at 2.00 pm and concluded at 2.25 pm

Councillor P Whiteley (Chairman)

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Wednesday, 7th July, 2010 in the Meeting Room, Macclesfield  
Library, Jordangate, Macclesfield, Cheshire SK10 1EE

**PRESENT**

Councillors W S Davies, L Gilbert and P Whiteley

**NON-COMMITTEE MEMBER IN ATTENDANCE:**

Councillor F Keegan                      Ward Councillor

**ADVISORY OFFICERS:**

Mrs Kate Khan	Solicitor and Legal Adviser to the Sub-Committee
Mrs Nicky Cadman	Licensing Officer
Mrs Carol Jones	Democratic Services Officer
Mr Hamish Roscoe	Public Protection and Health

**IN ATTENDANCE:**

Mr J Akka	for Applicant
Mr A Horne	Licensing Legal Solicitors – representing the applicant
Local residents	Objectors to the application

**1 ELECTION OF CHAIRMAN****RESOLVED:**

That Councillor P Whiteley be elected Chairman for the meeting.

**2 DECLARATIONS OF INTEREST**

No declarations of interest were made.

**3 APPLICATION FOR VARIATION OF A PREMISES LICENCE -  
PANACEA, LONDON ROAD, ALDERLEY EDGE, CHESHIRE**

The Sub-Committee considered the report of the Licensing Officer which provided details in respect of an application by Playworks Ltd for a variation of a premises licence for Panacea, London Road, Alderley Edge, Cheshire.

The Sub-Committee also took into account –

- The Secretary of State's Guidance under Section 182 Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives, namely –
  - (i) the prevention of crime and disorder;
  - (ii) public safety;
  - (iii) the prevention of public nuisance; and
  - (iv) the protection of children from harm
- All the evidence, including written and oral representations made at the meeting

Following on-site discussions with the Public Protection and Health Officer, the applicant had agreed a revision to the application. The proposal (as amended) was detailed in the report and sought to extend the terminal hour in relation to all licensable activities, with the exception of late night refreshment, from 03.00 to 04.00 Monday to Saturday and from 02.00 to 03.00 on Sundays. In relation to late night refreshment the application was for an extension of the terminal hour from 02.30 to 03.30 Monday to Saturday and from 01.00 to 02.30 on Sundays.

The application also included a request to permit certain forms of regulated entertainment outdoors and to vary Condition 17 within Annex 2 of the Premises Licence to remove the requirement that there should be no external speakers operated at the premises.

The **Licensing Officer** outlined the application for the Sub-Committee.

It was reported that representations had been received from occupiers of properties in Lynton Lane, Alderley Edge. Their representations had been made under the licensing objective of **prevention of public nuisance**.

The Police, whilst not objecting to the application, had expressed concerns in relation to the potential for anti-social behaviour which may be caused if regulated entertainment were allowed externally. Subject to the applicant making an agreement with Public Protection and Health, the Police had no objections.

Public Protection and Health had originally submitted an objection in respect of the use of regulated entertainment on the external terrace. However, following a site visit and discussion with the applicant, the objection had been withdrawn.

No other representations from responsible authorities had been made.

**Mr Horne**, on behalf of Playworks Ltd. presented the application, addressing objections raised by local residents. In support of the application, **Mr Akka** outlined the day-to-day operation of the business and emphasised its family-orientated nature. Although an extension was proposed, the applicant might not operate to the full extent of the hours



requested, but wished to have the option in the interests of commercial flexibility.

Mr Horne and Mr Akka were then questioned by all parties by way of clarification.

Mr Roscoe, for **Public Protection and Health** reported that he had made a site visit and had been given full access to all areas. He was satisfied that the proposals, as amended, and conditioned appropriately, would not give rise to concerns.

Mr Roscoe was questioned by Members of the Sub-Committee and the local residents, by way of clarification.

**Councillor Frank Keegan**, Ward Councillor, addressed the Sub-Committee on behalf of local residents who were in attendance and also made their own observations. The bases of their objections were –

- Noise nuisance was already at an unacceptable level and extension of the licensing hours would exacerbate the problem, particularly if outside speakers were permitted on the restaurant terrace.
- Incidences of anti-social behaviour by intoxicated patrons, such as urinating in the street, were cited.
- Parking in nearby residential streets: Noise nuisance from patrons returning to their cars in the early hours of the morning.

Councillor Keegan was questioned by Members of the Sub-Committee and the applicant's representative, by way of clarification.

**Mr Horne** then summed up the application and responded to the objections raised.

At this point in the proceedings, the Sub-Committee, together with the Legal Adviser, withdrew to consider the application.

Having reached a decision, the Sub-Committee re-convened the meeting and informed the applicant and those present of its decision.

**RESOLVED:**

1. That a variation of the licence be granted to Playworks Ltd. in respect of Panacea, London Road, Alderley Edge, Cheshire, as follows -

**Live Music** (to take place indoors and outdoors)  
Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks move forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Recorded Music** (to take place indoors and outdoors)  
Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks move forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Performance of Dance** (to take place indoors only)  
Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks move forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Film Exhibitions** (to take place indoors only)  
Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks move forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on terminal hour for licensable activities. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Sale and supply of alcohol** (for consumption both on and off the premises)  
Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Anything of similar description to live music, recorded music and dance**

(to take place indoors and outdoors)

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Provision of facilities for making music** (to take place indoors and outdoors)

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Provision of facilities for dancing** (to take place indoors only)

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Provision of facilities for entertainment similar to music and dance**

(to take place indoors only)

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks move forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Late Night Refreshment** (to take place indoors only)

Monday to Saturday 23.00 to 03.30

Sunday 23.00 to 02.30

Seasonal variations: One additional hour on the night when the clocks move forward for British Summer Time each year; Annual New Year

festivities - require 23.00hrs on 31st December to 05.00 on 1<sup>st</sup> January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

2. That the variation of the licence be subject to the following conditions –

- (1) There shall be only two external speakers;
- (2) The two speakers shall be mounted on the road-side elevation of the premises no more than 1 metre above existing door height openings and directed downwards;
- (3) There shall be a curfew of 23.00 on the use of the two external speakers;
- (4) To facilitate Condition 3 above, there shall be a separate volume and on/off control dedicated to the two external speakers under the sole control of senior management; and
- (5) The music from Panacea shall be inaudible at the boundary of noise-sensitive dwellings.

The meeting commenced at 9.30 am and concluded at 12.40 pm

Councillor P Whiteley  
(Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Monday, 2nd August, 2010 at The Capesthorne Room - Town Hall,  
Macclesfield SK10 1DX

### **PRESENT**

Councillor P Whiteley (Chairman)

Councillors J Goddard and C Tomlinson

### **OFFICERS PRESENT**

Mr J Hopper (Licensing Officer) and Mrs K Khan (Licensing Solicitor)

### **4 APPOINTMENT OF CHAIRMAN**

#### **RESOLVED:**

That Councillor P Whiteley be elected Chairman for the meeting.

### **5 DECLARATIONS OF INTEREST**

No declarations of interest were made.

### **6 APPLICATION FOR A PREMISES LICENCE - CANVAS LOUNGE LTD, 76 KING STREET, KNUTSFORD, CHESHIRE**

The Sub-Committee considered a report regarding an application by Canvas Lounge Ltd, 76 King Street, Knutsford for a Premises Licence under section 17 of the Licensing Act 2003.

Mr Childs, on the behalf of the applicant and an objector attended the hearing and made representations with respect to the application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representation from the Environmental Health Service

The following course of action had been agreed:

RESOLVED – That the application to grant a Premises Licence for Canvas Lounge Ltd be granted as follows:

**Live Music**

Thursday to Sunday 17.00 to 23.00

The performance of live music will take place indoors.

**Recorded Music**

Monday to Sunday 10.00 to 01.00

The playing of recorded music will take place indoors.

**Sale and supply of alcohol**

Monday to Sunday 10.00 to 01.00

The supply of alcohol will be for consumption both on and off the premises.

Non Standard Timings: "From the end of permitted hours on New Years Eve to 05.00 on New Years Day"

**Provision of facilities for making music**

Monday to Sunday 10.00 to 01.00

The facilities for making music will be indoors.

**Late Night Refreshment**

Monday to Sunday 23.00 to 01.00

The provision of late night refreshment will take place indoors.

Non Standard Timings: "from the end of permitted hours on New Years Eve to 05.00 on New Years Day"

**Opening Hours of the Premises**

Monday to Sunday 10.00 to 02.30 and from the end of Permitted hours on New Years to 05.00 on New Years Day).

And subject to the following conditions:-

**1. The Licence Holder shall take active steps to encourage smokers to use the designated smoking area to the rear of the premises. These steps shall include placing a notice at the exit to the street to indicate that smokers should use the smoking area at the rear.**

**2. The Licence Holder shall include within the notice at the exit onto the street text advising that glasses and open bottles and cans shall not be taken off the premises.**

The Committee wished to highlight the fact that should problems relating to the licensing objectives be linked to the operation of licensable activities at this premises then Responsible Authorities or Interested Parties may call for a review of the licence at any time.

(The applicant and the objector were reminded of the right to appeal the decision to the Magistrates' Court within 21 days).

The meeting commenced at 9.30 am and concluded at 10.45 am

Councillor P Whiteley (Chairman)

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## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Wednesday, 25th August, 2010 at West Committee Room -  
Municipal Buildings, Earle Street, Crewe, CW1 2BJ

### **PRESENT**

Councillor P Whiteley (Chairman)

Councillors S Davies and J Wray

### **OFFICERS IN ATTENDANCE**

Miss C Kerr, Licensing Officer  
Mrs K Khan, Solicitor  
Mrs J Zientek, Democratic Services Officer

### **7 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor P Whiteley be appointed Chairman.

### **8 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **9 APPLICATION FOR A PREMISES LICENCE - LAND AT WEST STREET, WOOLSTANWOOD, CREWE**

The Sub-Committee considered a report regarding an application from Co-operative Group Food Ltd for a Premises Licence for a proposed convenience retail store under section 17 of the Licensing Act 2003.

A representative of local residents and two representatives of the applicant attended the hearing and made representations with respect to the application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties and the police

the following course of action had been agreed:

RESOLVED – That the application from Co-operative Group Food Ltd for a Premises Licence for a proposed convenience retail store on land at West Street, Woolstanwood, Crewe be granted as follows:

Sale and supply of alcohol (for consumption off the premises) Monday to Sunday 06:00 to 23:00, subject to the conditions volunteered within the operating schedule.

The meeting commenced at 2.00 pm and concluded at 3.12 pm

Councillor P Whiteley (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Tuesday, 31st August, 2010 at The Capesthorne Room - Town Hall,  
Macclesfield SK10 1DX

### **PRESENT**

Councillor P Whiteley (Chairman)

Councillors H Davenport and J Goddard

### **OFFICERS PRESENT:**

Mr J Hopper (Licensing Officer) and Mrs K Khan (Licensing Solicitor)

### **10 APPOINTMENT OF CHAIRMAN**

#### **RESOLVED:**

That Councillor P Whiteley be elected Chairman for the meeting.

### **11 DECLARATIONS OF INTEREST**

No declarations of interest were made.

### **12 APPLICATION FOR A PREMISES LICENCE - SAINSBURY'S SUPERMARKET, 9 - 13 CANUTE PLACE, KNUTSFORD, CHESHIRE**

The Sub-Committee considered a report regarding an application by Sainsbury's Supermarket Ltd, 9-13 Canute Place, Knutsford, for the grant of a Premises Licence under section 17 of the Licensing Act 2003.

The Solicitor representing Sainsbury's Ltd, the Area Manager for Sainsbury's Ltd, the Store Manager for the Sainsbury's Supermarket Ltd, 9-13 Canute Place, Knutsford and an objector attended the hearing and made representations with respect to the application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)

- All the evidence, including the oral representations made at the meeting.

The following course of action had been agreed:

**RESOLVED** – That the application to grant a Premises Licence for Sainsbury's Supermarket Ltd be granted as follows:

**Sale and supply of alcohol** (for consumption off the premises only)  
Monday to Sunday 06.00 to 24.00

**Late Night Refreshment**

Monday to Sunday 23.00 to 24.00

The provision of late night refreshment will take place both indoors and outdoors.

Other times the premises are proposed to be open:

Monday to Sunday 00.01 to 24.00

Non Standard Timings. The applicant may elect not to open the store, or part(s) of the store 24 hours every day but requires the flexibility to do so subject to statutory or operational restrictions.

In addition the following conditions volunteered by the applicant and imposed on the licence:-

1. Think 21 – The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 21 years (or older if the licence holder so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example, thumb print or pupil recognition) is introduced. All cashiers will be instructed, through training, that a sale shall not be made unless this evidence is produced
2. Refusals – All cashiers shall be trained to record refusals of sales of alcohol in a refusals register. The register will contain:
  - Details of the time and date the refusal was made;
  - The name of the staff member refusing the sale;
  - Description of the person attempting to purchase;
  - Details of the alcohol the person attempted to purchase.

This register will be available for inspection by a police officer on request.

The Sub-Committee wished to highlight the fact that should problems relating to the licensing objectives be linked to the operation of licensable activities at this premises then Responsible Authorities or Interested Parties may call for a review of the licence at any time.

Parties who made relevant representations were reminded of the right to appeal decisions to the Magistrates Court within 21 days.

The meeting commenced at 9.30 am and concluded at 10.30 am

Councillor P Whiteley (Chairman)

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## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Thursday, 8th July, 2010 at Fred Flint Room, Westfields, Middlewich  
Road, Sandbach CW11 1HZ

### **PRESENT**

Councillor P Whiteley (Chairman)

Councillors H Davenport, B Dykes, M Hardy and J Wray

### **6 APPOINTMENT OF CHAIRMAN**

RESOLVED

It was moved and seconded that Councillor P Whiteley be appointed as Chairman for the meeting.

### **7 APOLOGIES FOR ABSENCE**

None.

### **8 DECLARATIONS OF INTEREST**

None.

### **9 EXCLUSION OF THE PUBLIC AND PRESS**

To consider passing a resolution under Section 100(A)(4) of the Local Government Act 1972 to exclude the public and press from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information in accordance with paragraphs 1 and 2, pursuant to part 1 of Schedule 12 (A) of the Act.

RESOLVED

That the Exclusion Resolution be moved as printed.

### **10 10-11/02 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES**

The Sub-Committee considered a report regarding an application for a Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the applicant was a "fit and proper" person to be granted a licence.

The applicant was in attendance throughout the hearing and spoke in support of his application.

At this point in the proceedings, the applicant and the Licensing Officer withdrew from the meeting whilst the Sub-Committee reached its decision.

Following full consideration of the application, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the application.

The applicant and the Licensing Officer re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED –

That the application be granted subject to the successfully completion of the Council's theory test. However, this licence was granted for a probationary period of twelve months to allow the applicant to demonstrate that he could continue to be a fit and proper person to hold a hackney carriage/private hire drivers licence.

The applicant was reminded of the right to appeal the decision to the Magistrates Court within 21 days.

The meeting commenced at 3.00 pm and concluded at 3.45 pm

Councillor P Whiteley (Chairman)



## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Friday, 20th August, 2010 in The Capesthorne Room - Town Hall,  
Macclesfield SK10 1DX

### **PRESENT**

Councillors Rhoda Bailey, B Dykes, L Gilbert and P Whiteley

### **APOLOGIES**

Councillor J Wray

### **IN ATTENDANCE**

Kate Khan	Solicitor – Legal Adviser to the Sub-Committee
Carol Jones	Committee Officer
Jim Hopper	Licensing Officer

### **11 ELECTION OF CHAIRMAN**

#### **RESOLVED**

That Councillor B H Dykes be elected Chairman for the meeting.

### **12 DECLARATIONS OF INTEREST**

No Member made any declaration of interest in respect of any item of business on the agenda.

### **13 EXCLUSION OF THE PUBLIC AND PRESS**

#### **RESOLVED**

That the press and public be excluded from the meeting during consideration of the following item, pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 and the public interest would not be served in publishing this information.

### **14 10-11/03 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES**

The Sub-Committee considered a report which provided details of Applicant 10-11/03 who had applied for a licence to drive Hackney Carriage and Private Hire Vehicles.

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the applicant was a "fit and proper" person to be granted a licence.

The applicant was in attendance throughout the hearing and spoke in support of his application. He was questioned by the Sub-Committee by way of clarification.

The applicant and the Licensing Officer then withdrew from the meeting whilst the Sub-Committee reached its decision. The Committee Officer and Legal Adviser remained in the meeting.

Following full consideration of the application, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the application.

Following the Sub-Committee's determination, the applicant and the Licensing Officer rejoined the meeting to be informed of the Sub-Committee's decision.

#### **RESOLVED**

- (a) That the applicant was a "fit and proper" person to hold a Hackney Carriage and Private Hire Driver Licence and the application be granted for a probationary period of 12 months to allow the applicant to demonstrate that he continued to be a "fit and proper" person to hold the licence; and
- (b) That the granting of the application be subject to the successful completion of the Council's theory test.

The applicant was informed of his right to appeal to the Magistrates Court within 21 days.

Note: At this point in the proceedings, the applicant withdrew from the meeting.

#### **15 10-11/04 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES**

The Sub-Committee considered a report which provided details of Applicant 10-11/04 who had applied for a licence to drive Hackney Carriage and Private Hire Vehicles. The Sub-Committee also considered a reference in support of the application, tabled at the meeting.

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the applicant was a "fit and proper" person to be granted a licence.

The applicant was in attendance throughout the hearing and spoke in support of his application. He was questioned by the Sub-Committee by way of clarification.

The applicant and the Licensing Officer then withdrew from the meeting whilst the Sub-Committee reached its decision. The Committee Officer and Legal Adviser remained in the meeting.

Following full consideration of the application, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the application.

The applicant and the Licensing Officer rejoined the meeting to be informed of the Sub-Committee's decision.

**RESOLVED**

- (a) That the applicant was a "fit and proper" person to hold a Hackney Carriage and Private Hire Driver Licence and the application be granted; and
- (b) That the granting of the application be subject to the successful completion of the Council's theory test.

The meeting commenced at 10.00 am and concluded at 11.15 am

Councillor B H Dykes (Chairman)

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO: LICENSING COMMITTEE**

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<b>Date of Meeting:</b>	<b>13<sup>th</sup> September 2010</b>
<b>Report of:</b>	<b>Licensing Manager</b>
<b>Subject/Title:</b>	<b>Sexual Entertainment Venues - Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as amended)</b>

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#### **1.0 Report Summary**

- 1.1 The report provides background information in relation to the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 made by section 27 of the Policing and Crime Act 2009. The report sets out the statutory provisions in relation to the adoption of the power to regulate 'sexual entertainment venues' within the amended Schedule and requests authority from the Licensing Committee to carry out a consultation exercise in relation to both the proposed adoption of the legislation and a draft policy.

#### **2.0 Recommendations**

- 2.1 Licensing Committee is requested to authorise the Licensing Manager:
- 2.1.1 to carry out a consultation exercise, as set out within the report, in relation to the proposed adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, within the Borough of Cheshire East; and
- 2.1.2 without prejudice to any decision in relation to adoption of the legislation, to carry out a consultation exercise, as set out within the report, in relation to (i) the draft policy on the licensing of sexual entertainment venues (including a set of draft conditions) set out within the appendix to the report; and (ii) the relevant fee levels.

#### **3.0 Reasons for Recommendations**

- 3.1 The Licensing Committee has the delegated authority to consider this matter.

#### **4.0 Wards Affected**

- 4.1 All

#### **5.0 Local Ward Members**

- 5.1 All

**6.0 Policy Implications including - Climate change  
- Health**

- 6.1 The report requests that authorisation is given to the Licensing Manager to carry out a consultation exercise in relation to a draft policy

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 None

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

- 8.1 There will be a cost implication relating to the proposed consultation exercise on a draft policy. The consultation costs would be met from existing budget provision within the Licensing Section.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 Section 27 of the Policing and Crime Act 2009, which came into force on 6<sup>th</sup> April 2010, amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in order to provide local authorities with the power to regulate 'sexual entertainment venues.' Further details about the statutory definition of 'sexual entertainment venues' are provided within paragraph 11 of the report.
- 9.2 If a local authority wishes to exercise the 'new' powers within Schedule 3 of the 1982 Act it must formally resolve that the provisions are to have effect in its area. The procedure for adoption is set out within section 2 of the 1982, which provides that the local authority must pass a resolution specifying that the amendments made by section 27 of the 2009 Act to Schedule 3 shall apply to its area and must specify the date on which the resolution shall come into force. The specified day must be more than one month after the date on which the resolution was passed. The local authority is also required to publish notice that a resolution has been made for two consecutive weeks in a local newspaper circulating in the area. The first publication may not be later than twenty-eight days before the date specified in the resolution for the provisions to come into force.
- 9.3 Paragraph 13 of Schedule 3 provides the authority for the Council to "make regulations prescribing standard conditions applicable to licences for sex establishments, that is to say, terms, conditions and restrictions on or subject to which licences under this Schedule are in general to be granted, renewed or transferred.." Paragraph 13(1A) states that no standard condition may be prescribed in so far it "relates to any matter in relation to which requirements or prohibitions are or could be imposed under the Regulatory Reform (Fire Safety) Order 2005." Paragraph 13(3) provides that regulations may prescribe conditions regulating – (a) the hours of opening and closing of sex

establishments; (b) displays or advertisements on or in such establishments; (c) the visibility of the interior of sex establishments to passers-by; and (d) any change from one kind of sex establishment mentioned in sub-paragraph 2(a) above to another kind of sex establishment so mentioned. Where the authority has made standard conditions every licence granted, renewed or transferred is presumed to have been granted, renewed or transferred subject to the standard conditions unless they have been expressly excluded or varied.

- 9.4 Paragraph 12 of Schedule 3 sets out the grounds for refusal of an application. Certain grounds, for example that the applicant is under 18 years old or is disqualified, are mandatory grounds for refusal. Other grounds, including those relating to the appropriate number of such establishments in the 'relevant locality,' are discretionary grounds. Further information in relation to the grounds for refusal is set out within the body of the report.
- 9.5 Paragraph 19 of Schedule 3 provides that the applicant for the grant, renewal or transfer of a licence shall pay 'a reasonable fee determined by the appropriate authority.'
- 9.6 Schedule 3 of the 1982 Act constitutes an authorisation scheme for the purposes of the EU Services Directive 2006 and the Council must comply with the Provision of Services Regulations 2009 when applying the licensing provisions in Schedule 3.

## **10.0 Risk Management**

- 10.1 Full and thorough consideration of any consultation responses received would be required to reduce any risk of challenge to any subsequent decisions. It is suggested that any consultation responses received will be referred to a subsequent meeting of the Licensing Committee.

## **11.0 Background and Options**

- 11.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the regulation of 'sex establishments.' Prior to the enactment of the Policing and Crime Act 2009, the definition of 'sex establishments' was limited to sex shops and sex cinemas. Section 27 of the Policing and Crime Act 2009, which came into force on 6 April 2010, extends the definition of 'sex establishment' to include 'sexual entertainment venues.'
- 11.2 A 'sexual entertainment venue' for the purposes of the 1982 Act is "any premises at which relevant entertainment is provided before an audience for the financial gain of the organiser or the entertainer." 'Relevant entertainment' means "any live performance or 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)."
- 11.3 If a local authority has resolved before 6 April 2010 that Schedule 3 of the 1982 Act is to apply within its area, then the amendments in relation to sexual

entertainment venues within the 2009 Act do not apply to the area of the local authority; however, the local authority may resolve that Schedule 3 of the 1982 Act, as amended by section 27 of the 2009 Act, is to apply to its area.

- 11.4 Each of the three predecessor district Councils made resolutions to adopt the original provisions of Schedule 3 of the 1982 Act. Crewe and Nantwich Borough Council resolved on 2 February 1983 that the provisions of Schedule 3 would come into force in its area on 1<sup>st</sup> April 1983. Macclesfield Borough Council resolved on 21<sup>st</sup> April 1983 that the provisions would come into force on 1<sup>st</sup> June 1983. Congleton Borough Council resolved on 3<sup>rd</sup> February 1983 that the provisions would come into force in its area on 1<sup>st</sup> April 1983. These resolutions have been preserved, and apply to Cheshire East, on the basis of regulation 4 of the Local Government (Structural changes) (Transitional Arrangements) (No 2) Regulations 2008.
- 11.5 If the Council does not make a resolution to adopt the amended Schedule 3 of the 1982 Act within one year of the legislation coming into force (i.e. by 6 April 2011) then 'as soon as reasonably practicable' it must consult local people about the adoption of the legislation. Whilst it is not a statutory requirement to consult if adopting the legislation prior to April 2011, paragraph 3.8 of the Home Office Guidance "Sexual Entertainment Venues – Guidance for England and Wales" states:

*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 report therefore seeks authorisation from the Licensing Committee to carry out a consultation exercise in relation to the adoption of the amendments to Schedule 3 of the 1982 Act. The alternative options would be either (a) to recommend that the amended provisions are adopted without a consultation exercise or (b) to recommend that the provisions are not adopted at this time.

- 11.6 Similarly, there is no statutory requirement for a local authority to adopt a policy on the licensing of sex establishments, however, it is suggested that it would be best practice to consider such a policy. Attached as an appendix to the report is a draft policy in relation to the licensing of sexual entertainment venues. It is suggested that such a policy would provide guidance to prospective applicants and members of the public and would assist with consistency of decision-making. The report requests, without prejudice to any decision in relation to adoption, the authority to consult in relation to a draft policy. The alternative option would be not to progress such a policy or to make amendments to the draft policy prior to consultation.
- 11.7 As set out within paragraph 9 above, paragraph 12 of Schedule 3 provides both mandatory and discretionary grounds for refusal. The grounds for refusal are set out within the policy appended to the report. Members will note that one of the discretionary grounds for refusal is "*that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;*" The



proposed policy, as currently drafted, does not seek to place a figure on the number of sexual entertainment venues which it considers appropriate in any locality within the Council's administrative area but rather states (i) that each application will be determined on its own merits; and (ii) that consideration will be given to the locality in each case and to the number of Sexual Entertainment Venues suitable for that particular locality. A further discretionary ground within paragraph 12 is on the basis that: *"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.*

Whilst recognising the each application would be determined on its own individual merits, the policy sets out certain factors (such as the existence of 'sensitive uses' such as worship and education in the relevant locality) which would generally render the grant or renewal of a licence inappropriate.

11.8 The alternative to the policy position outlined within the draft policy at present would be as follows:

11.8.1 to seek to identify specific localities within the Borough and to identify a number of establishments which are appropriate for each of these localities; and

11.8.2 to add, remove or amend the factors which are stated as being relevant when considering whether the grant or renewal of a licence would be appropriate, having regard to the character of the relevant locality or the use to which premises in the vicinity are put.

11.9 In addition to setting out the proposed policy relating to the factors relevant to the determination of an application, the policy document sets out the application process to be adopted by the Council together with a set of proposed standard conditions. The provisions of paragraph 12 of Schedule 3 in relation to standard conditions are detailed within paragraph 9.3 above. The proposed standard conditions within the attached policy deal with matters including: hours of opening, conduct of the premises, signs doors and window displays, and the employment of persons on the premises and are based on the conditions which were previously endorsed on Public Entertainment Licences (issued under the 1982 Act).

11.10 The issue of Sexual Entertainment Venue falls within the scope of Provision of Services Regulations 2009. As a result, the Council is required to determine whether 'tacit authorisation' is to apply; i.e. whether, if an application is not determined within a pre-defined timeframe, subject to the ability to extend the period for a limited period if the applicant is notified of this prior to the expiry date, the application would be deemed granted. In this case the policy proposes that tacit authorisation is not to apply. This decision is based on the public interest inherent in ensuring that applications are fully considered before a licence is granted, taking into consideration the potential significant adverse impact on local communities of inappropriately located or inadequately managed premises. The alternative approach would be to set a timeframe for

determination of applications to which tacit authorisation would apply (i.e. applications would be deemed granted if not determined within the timeframe).

11.10 As set out within the legal implications at paragraph 9.5 above, the council is able to determine a 'reasonable fee' in relation to the grant, renewal or transfer of a sex establishment licence. Members will recall that in December 2008 the Licensing Committee set the fee levels to apply to the grant and renewal of sex shop licences (also issued under the provisions of Schedule 3 of the 1982 Act). In setting these fees Members were aware that fees must be limited to covering the Council's costs in carrying out the function under the Act. The costs to the authority include administration of applications (including hearings), inspection and enforcement and include direct costs and indirect costs. The procedure relating to the processing of an application for a Sexual Entertainment Venue Licence is the same as that in relation to an application for a Sex Shop Licence. It is therefore suggested that the fee levels in relation to a Sexual Entertainment Venue Licence should mirror those in relation to Sex Shops, i.e.

New application: £2,260

Renewal: £1,130

In addition, it is suggested that the fee level in relation to a transfer application should be set as £500.

11.11 It is proposed that any consultation exercise authorised by the Committee would take place over a period of twelve weeks and would include:

- direct correspondence with the Police, Parish Councils and known sexual entertainment venues;
- publication of details of the consultation exercise on the Council's website ([www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk))
- issue of a press release to local media

11.12 It should be noted that if adopted, the legislation makes provision for a transitional twelve month period (beginning with the date on which a resolution to adopt, if any, is made). Under the transitional arrangements any premises providing 'relevant entertainment' would be required to apply for a Sexual Entertainment Venue licence without the benefit of 'grandfather rights.'

## **12.0 Overview of Year One and Term One Issues**

12.1 None

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mrs K Khan

Designation: Solicitor, Legal Services

Tel No: 01270 685847

Email: [kate.khan@cheshireeast.gov.uk](mailto:kate.khan@cheshireeast.gov.uk)



# **CESHIRE EAST BOROUGH COUNCIL**

## **DRAFT**

### **POLICY ON THE LICENSING OF SEXUAL ENTERTAINMENT VENUES**

**Schedule 3, Local Government  
(Miscellaneous Provisions) Act 1982 (as  
amended)**

## **1.0 PREFACE**

- 1.1 On [insert date] Cheshire East Borough Council resolved to adopt the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') by section 27 of the Policing and Crime Act 2009 with effect from [insert date].
- 1.2 Any person wishing to operate a Sexual Entertainment Venue as defined by Schedule 3 requires a licence, unless the requirement for a licence has been waived by the Council. This document sets out the Council's policy in relation to the licensing of Sexual Entertainment Venues within its administrative area.
- 1.3 A consultation on this policy was undertaken between [insert date] and [insert date] and was formally adopted on [insert date].
- 1.4 This policy will be kept under review and amendments proposed in the light of any changes in the relevant legislative provisions.

## **2.0 INTRODUCTION**

- 2.1 It is intended that this policy will be a guide for both applicants and those other parties who have an interest in the licensing of sexual entertainment venues. Whilst the policy provides framework guidance, the Council, as the Licensing Authority, will ultimately determine each individual application on its own merits.
- 2.2 Cheshire East has a population of 358,900 and covers an area of 116,638 hectares. Cheshire East's administrative area contains the industrial town of Crewe, the old mill towns of Macclesfield, Bollington and Congleton, the market towns of Nantwich, Knutsford and Sandbach, the salt town of Middlewich, the town of Wilmslow as well as the smaller settlements of Holmes Chapel, Alsager and Poynton.

## **3.0 POLICY**

### **3.1 Meaning of 'Sexual Entertainment Venue'**

'Sexual Entertainment Venue' is defined within Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) ('the Act') as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer." The following are not Sexual Entertainment Venues for the purpose of Schedule 3 of the Act

- (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));

### 3.2 Relevant Entertainment

‘Relevant Entertainment’ means “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).”

In accordance with the Guidance from the Home Office, the Council expects that ‘Relevant Entertainment’ will generally apply to the following types of activity:

- Lap dancing;
- Pole dancing;
- Table dancing;
- Strip shows;
- Peep shows;
- Live sex shows

However this list is not exhaustive and, taking into account that the exact nature of these descriptions may vary, each case will have to be dealt with on its own merits.

### 3.4 Mandatory grounds for refusal

Paragraph 12 of Schedule 3 to the 1982 Act prescribes that a licence for a sexual entertainment venue shall not be granted to:

- (a) a person under the age of 18; or

(b) to a person who is for the time being disqualified under paragraph 17(3) of the Schedule; or

(c) to a person, other than a body corporate, who is not resident in the United Kingdom, 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 the United Kingdom; or

(e) to a person who had, within a period of twelve 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.

The application form, a copy of which is attached at Appendix 1 asks questions in relation to the above issues.

### 3.5 Discretionary grounds for refusal

Paragraph 12 of Schedule 3 also provides that the authority may refuse (i) an application for the grant or renewal of a licence on one or more of the grounds listed at (a) to (d) below; and (ii) an application for a transfer on either or both of the grounds at (a) and (b):

(a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

(c) that the number of sex establishments in the relevant locality at the time the application is made 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.

### 3.6 Relevant locality

'Relevant locality' for the purposes of paragraph 12 of Schedule 3 of the Act means:

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

The Council will consider the extent of the locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define 'locality' as the whole of the Council's administrative area or an entire town.

### 3.7 Relevant number

As set out within paragraph 3.5 above paragraph 12 of Schedule 3 provides that a local authority may refuse an application if it is satisfied that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality.

The Council does not seek within this policy to place a figure on the number of sexual entertainment venues which it considers appropriate in any locality within the Council's administrative area.

Consideration will be given to the locality in each case and to the number of Sexual Entertainment Venues suitable for that locality.

The Council is able to determine that the appropriate number for a locality is nil.

### 3.8 Character of relevant locality and uses of premises in the vicinity

When considering whether it would be appropriate to grant the licence the Council will take into consideration factors such as:

- the uses to which premises in the vicinity are put, for example whether they are commercial, industrial or residential; and
- the users of premises in the area;

Whilst each application will be determined on its own individual merits, the grant of a licence will generally be considered inappropriate where the characteristics of the locality include the following sensitive uses:

- (a) an area predominantly comprising residential accommodation;
- (b) parks and children's play areas;
- (c) schools and youth centres;

- (d) places of worship; and
- (e) community facilities.

### **3.9 Duration of licence**

Unless previously cancelled or revoked a licence will remain in force for twelve months or such shorter period specified in the licence as the Council determines is fit.

### **3.10 Conditions**

Where a licence is granted the standard conditions attached at Appendix 3 will be attached.

Where it is reasonable and proportionate to do so, additional conditions may be imposed on a licence.

### **3.11 Waiver**

The Act makes provision for the Council to grant a waiver from the requirement to hold a Sexual Entertainment Licence in any case where it considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such period as the Council thinks fit.

The Council may at any time give a person who would require a licence but for a waiver, notice that the waiver is to terminate on a date not less than 28 days from the date the notice is given.

Whilst each application will be considered on its own merits, in light of the exemption in relation to the provision of relevant entertainment on an infrequent basis<sup>1</sup>, the Council takes the view that waivers are unlikely to be appropriate in relation to Relevant Entertainment and would only be considered in exceptional circumstances.

## **4.0 APPLICATION PROCESS**

### **4.1 Submission of application**

The Council's application form in relation to Sexual Entertainment Venues is attached as Appendix 1. The Council requests that the application form is submitted together with:

- a scale plan of the Premises;
- The Licence Fee<sup>2</sup>

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<sup>1</sup> See paragraph 3.1 above and paragraph 2A(3)(b) Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

<sup>2</sup> Information in relation to fees is published on the Council's website and are available from the Licensing Section



- A copy of the completed notice to be displayed on the Premises (see notification requirements below);
- A CRB disclosure (where the applicant is an individual)

A copy of the application must also be served on the Chief Officer of Police:

(a) in a case where the application is made by means of a 'relevant electronic facility'<sup>3</sup>, by the appropriate authority not later than 7 days after the date the application is received by the authority;

(b) in any other case, by the applicant not later than 7 days after the date of the application.

The relevant addresses for service on the Police are as follows:

Area of former Boroughs of Crewe & Nantwich and Congleton:

Police Licensing Officer  
Cheshire Constabulary  
Crewe & Congleton Area  
The Police Station  
Middlewich Road  
Sandbach  
Cheshire  
CW11 1HU

Area of former Borough of Macclesfield:

Police Licensing Officer  
Cheshire Constabulary  
Macclesfield Division  
Brunswick Street  
Macclesfield  
Cheshire  
SK10 1HQ

#### **4.2 Renewal applications**

Where, before the date of expiry of a licence, an application has been made for its renewal, it shall be deemed to remain in force until the withdrawal of the application or its determination by the Council.

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<sup>3</sup> "relevant electronic facility" means— (a) the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009, or (b) any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.

#### **4.3 Advertising requirements**

In accordance with paragraph 10 of the Schedule, applicants for the grant, renewal or transfer of a licence are required to give public notice of the application. Notice shall be given:

- by displaying a notice in a prescribed form (see Appendix 2) on or near the Premises in a place where the notice can be conveniently read by the public for a period of at least 21 days beginning with the date on which the application was made to the Council; and
- by publishing an advertisement (in the form prescribed) in a local newspaper circulating in the Council's area not later than 7 days after the date the application was made to the Council.

Applicants are requested to: (i) send a copy of the completed notice to the Council with the application form; and (ii) to notify the Council of the name of the newspaper in which the advertisement is to appear together with the date of publication.

#### **4.4 Objections**

Objections to an application for the grant, renewal or transfer of a Licence must be made in writing stating in general terms the grounds of the objection. Objections should be made not later than 28 days after the date of the application.

The Act permits a wide range of persons to raise objections in relation to applications for Sexual Entertainment Venues. Objectors may include local residents, residents associations and local businesses. Cheshire Constabulary is a statutory consultee in relation to applications for Sexual Entertainment Venues.

Where objections in relation to an application for the grant, renewal or transfer of a licence are received by the Council, copies of the objections will be provided to the Applicant. However, the name and address of an objector will not be disclosed to the Applicant without the consent of the objector to such disclosure.

#### **4.5 Determination of applications**

In cases where objections have been made (other than objections which are outside the remit of the 1982 Act) the determination of applications will be referred to a meeting of the Council's Licensing Committee or Licensing Sub-Committee.

#### **4.6 Hearing procedure**

A Committee or Sub-Committee determining an application in relation to a Sexual Entertainment Venue will follow the hearing procedure set out at Appendix 4. A copy of the hearing procedure will be sent to the relevant parties when they are notified of the date of the meeting.

#### **4.7 Tacit authorisation**

The Council has determined that tacit authorisation (for the purposes of the Provision of Services Regulations 2009) is not to apply to applications for Sexual Entertainment Venue Licences. In making this decision the Council has considered the public interest inherent in ensuring that applications are fully considered before a licence is granted, particularly in the light of the potential significant adverse impact on local communities of inappropriately located or inadequately managed premises.

#### **4.8 Appeals**

In cases where the Council refuses an application for the grant, renewal or transfer of a Sexual Entertainment Venue licence the applicant may appeal the decision to the Magistrates' Court within 21 days (of the date when the applicant is notified of the decision), unless:

(1) the application was refused under the grounds in paragraph 12(3)(c) or (d) in which case the applicant can only challenge the refusal by way of judicial review; or

(2) the application was refused on any of the grounds specified in paragraph 12(1) of Schedule 3 of the 1982 Act, in which case the applicant shall not have a right of appeal unless he seeks to show that the ground did not apply to him.



**Application for a Sexual Entertainment Venue Licence  
Schedule 3, Local Government (Miscellaneous Provisions) Act 1982**

NOTE: If additional information is submitted on separate sheets please quote the relevant question number in relation to the additional information provided.

<b>1</b>	<b>Applicant's details</b>	
1.1	Is the Applicant:	(a) an individual (b) a partnership or other unincorporated body (c) a body corporate  [please delete as appropriate]
1.2	Full name of applicant	
1.3	Give the following information on behalf of the applicant:  (a) Telephone number(s)  (b) Address to which communications are to be sent  (c) If different from the address in (b) above, the Applicant's permanent address (if an individual) or registered or principal office (if a company etc)	
1.4	If the applicant is an individual please supply the following information:  (a) Date of Birth  (b) Place of Birth  (c) Date on which became a UK resident (if not born in the UK)	
1.5	If the applicant is a body corporate or an unincorporated body please provide the following information in respect of each of	[Please continue on a separate sheet if required]

	<p>the Directors, the Company Secretary or other persons responsible for the management of the body. In the case of a partnership provide details of each partner</p> <p>(a) Full name</p> <p>(b) Address</p> <p>(c) Capacity</p> <p>(d) Date of Birth</p> <p>(e) Place of Birth</p> <p>(f) Date on which became a UK resident (if not born in the UK)</p>	
1.6	<p>Where the applicant is a company please answer the following questions.</p> <p>(a) Is the applicant a wholly or partly owned subsidiary of another company?</p> <p>If the answer to (a) is yes please provide details of the parent company or holding company.</p> <p>(b) What type of company is the applicant?</p> <p>(c) In what country is the company incorporated?</p> <p>(d) What is the date of incorporation of the company?</p> <p>(e) Is the applicant or any person whose name is given in response to question 1.5 concerned in any way with other businesses which controls or manages sex establishments? If yes please provide details.</p>	
1.7	<p>What is the nature of the applicant's interest in the Premises?</p> <p>(a) Freehold (b) Leasehold</p> <p>[please delete as appropriate]</p> <p>If the applicant's interest is leasehold please provide the details of the landlord.</p>	

1.8	<p>Is the whole of the business owned by the applicant?</p> <p>If not, please provide details of the individual/company which owns the remainder of the business</p>	
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<b>2</b>	<b>Premises Details</b>	
2.1	Address of Premises	
2.2	Telephone number of Premises	
2.3	<p>Are the whole of the Premises to be used under the Licence?</p> <p>If no, please describe (by reference to a plan if necessary):</p> <p>(a) which part of the Premises are to be used for the purposes of the Licence:</p> <p>(b) the use to which the remainder of the Premises are put;</p> <p>(c) the names of those who are responsible for the management of the remainder of the Premises.</p>	
2.4	<p>Are the Premises constructed or adapted so as to permit access to and from the Premises for members of the public who are disabled?</p> <p>If the answer is no, please provide information in relation to the applicant's proposals for affording such access.</p>	[please continue on a separate sheet if required]
2.5	<p>Are the Premises in use as a Sexual Entertainment Venue at the date of this application?</p> <p>If the answer is yes, please give the name and address of the persons or body who now operate the business and (if known) the date upon which the Premises were first used for these purposes.</p>	

<b>3</b>	<b>Details of the Business</b>	
3.1	Under what business or trading name will be the business be known?	
3.2	Please provide details of the times (days and hours) during which the Premises is proposed to be open to the public.	

<b>4</b>	<b>Persons responsible for management</b>	
4.1	<p>Please provide the following information in relation to each individual who is to be responsible for the management of the Premises in the absence of the Licence Holder:</p> <p>(a) Full name</p> <p>(b) Address</p> <p>(c) Capacity</p> <p>(d) Date of Birth</p> <p>(e) Place of Birth</p> <p>(f) Date on which became a UK resident (if not born in the UK)</p>	[please continue on a separate sheet if required]

<b>7</b>	<b>Previous refusals and convictions</b>		
7.1	<p>Have the Applicant ever been refused or had a Sexual Entertainment Licence revoked by any licensing authority?</p> <p>If yes, please provide full details (please continue on a separate page if necessary)</p>	Yes / No	

<b>7</b>	<b>Previous refusals and convictions</b>	
7.2	<p>Does the Applicant or any individual named in response to questions 1.5 or 4.1 have previous convictions or cautions?</p> <p>If the answer is yes, please provide of a separate sheet the following information in relation to each individual who has a previous conviction or caution:</p> <p>(a) Name</p> <p>(b) Date of conviction</p> <p>(c) Convicting court</p> <p>(d) Nature of conviction</p> <p>(e) Sentence</p>	Yes / No
7.3	<p>Have you any reason to believe that a prosecution may be pending against the Applicant or any of the individuals named in response to questions 1.5 or 4.1?</p> <p>If yes please provide details</p>	Yes / No
7.4	<p>Is there in force against the applicant or any of the persons named in response to question 1.5 a disqualification from holding a licence for a sex establishment under the Local Government (Miscellaneous Provisions) Act 1982?</p>	Yes / No

<b>8</b>	<b>Additional details</b>	
8.1	<p>Please provide any additional information which the applicant would wish the Council to take into account when considering this application.</p>	[please continue on a separate page if necessary]



**APPLICANTS ARE REMINDED THAT ANY PERSON WHO, IN CONNECTION WITH THE APPLICATION FOR THE GRANT OR RENEWAL OF A SEXUAL ENTERTAINMENT VENUE 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 TWENTY THOUSAND POUNDS (£20,000)**

<b>Declaration</b>	
I hereby declare that the above information is true to the best of my knowledge and belief.	
Signature	
Name	
Capacity	
Date	

We will use the information you give in this form and in any supporting documentation you send us, to process your application. We may check information you have provided, or information about you that someone else has provided with other information held by us. We may also get information about you from certain third parties, or give them information to:

- make sure the information is accurate
- prevent or detect crime, and
- protect public funds

These third parties include Government departments, other departments of the Council and other local authorities. We will not give information about you to anyone else unless the law allow us to.

**Please submit the completed application to the Licensing Section at the relevant address provided below:**

	<b>Congleton (01270) 537112</b>	<b>Crewe &amp; Nantwich (01270) 537114</b>	<b>Macclesfield (01625) 504206</b>
<b>LICENSING AUTHORITY Cheshire East Borough Council</b>	Licensing Section Municipal Buildings Earle Street, Crewe CW1 2BJ	Licensing Section Municipal Buildings Earle Street, Crewe CW1 2BJ	Licensing Section Macclesfield Town Hall Market Place, Macclesfield, Cheshire SK10 1DX



**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT  
1982**

**Notice of Application for the [Grant] [Renewal] of a Sexual  
Entertainment Venue Licence**

NOTICE IS HEREBY GIVEN that on .....

I/we .....  
of  
.....

made application to Cheshire East Borough Council for the [grant] [renewal] of  
a Licence to use the premises named below as a Sexual Entertainment  
Venue.

Address of Premises:.....  
.....

Any objections to this application should be made not later than 28 days after  
..... being the date of the application. Objections must be made  
in writing, stating in general terms the grounds of objection, to The Licensing  
Section, Cheshire East Borough Council [Town Hall, Market Place,  
Macclesfield SK10 1DX] [Municipal Buildings, Earle Street, Crewe, CW1 2BJ].

Signed: .....

**SEXUAL ENTERTAINMENT VENUES****Local Government (Miscellaneous Provisions) Act 1982 (Schedule 3)****CONDITIONS**

These conditions are imposed by the Council pursuant to its powers under paragraph 13(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended) ('the 1982 Act')

<b>Definitions</b>	<p>1. In these conditions, unless the context otherwise requires:</p> <p>'Council' means Cheshire East Borough Council</p> <p>'Licence Holder' means the holder of a Sexual Entertainment Venue Licence</p> <p>'Premises' means any premises within the Council's area licensed as a Sexual Entertainment Venue</p> <p>'Relevant Entertainment' shall have the meaning given within paragraph 2A of Schedule 3 of the 1982 Act.</p> <p>'Sexual Entertainment Venue' has the meaning set out within Schedule 3 of the 1982 Act.</p> <p>For the purposes of these conditions:</p> <p>(a) Words importing the singular meaning where the context so admits include the plural meaning and vice versa; and</p> <p>(b) Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.</p>
<b>Display of Licence</b>	<p>2. The Licence or a clear copy and any special conditions attached thereto shall be prominently displayed at the Premises at all times so as to be readily and easily seen by all persons using the Premises. The licence shall be adequately protected against theft, vandalism or defacement.</p>

<b>Hours of opening</b>	<p>3. The Premises shall not be open for any purpose of the Licence except during the following hours:</p> <p>[insert hours granted]</p>
<b>Responsibility of Licence Holder</b>	<p>4. The Licence Holder shall maintain good order and take all reasonable precautions for the safety of the public and employees and, except with the consent of the Council, shall retain control over all portions of the premises.</p> <p>5. The Licence Holder shall in particular ensure that none of the following shall take place:</p> <ul style="list-style-type: none"> <li>• Unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971;</li> <li>• Indecent behaviour, including sexual intercourse;</li> <li>• The offer of any sexual or other indecent service for reward;</li> <li>• Acts of violence against person or property and/or the attempt of threat of such acts.</li> </ul> <p>6. The Licence Holder shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been specified in the Licence.</p> <p>7. The Licence Holder will maintain a register which shall be kept on the Premises to clearly record the identity of persons nominated in accordance with conditions 30 and 31 hereof on duty during the entertainment, the day and times of the start and finish of the entertainment, and the names and addresses of the performers. The register shall be retained for a period of not less than twelve months after the last entry in the register. The register shall be available at all times for inspection by the Police or an authorised officer of the Council.</p> <p>8. Where the Licence Holder is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the control or management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director secretary or manager are to be furnished within 14 days of a request in writing from the Council.</p>

	<p>9. The Licence Holder shall ensure that neither he, nor any person promoting or providing entertainment on the Premises (or any person acting on behalf of such a person), shall display advertisements promoting Relevant Entertainment or the Premises in an unlawful manner.</p> <p>10. The Licence Holder shall inform the Council within seven days if he is convicted of any offence</p>
<b>Conduct of the premises</b>	<p>11. The Licence Holder or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes. Solicitation shall be taken to include the distribution of leaflets.</p> <p>12. The Premises shall be used only for the purposes specified in the Licence.</p> <p>13. No person under the age of eighteen years shall be admitted to the Premises or be employed in the business of the Sexual Entertainment Venue.</p> <p>14. Customers who appear to be under the age of 21 must be asked to provide photographic proof of their age. The only means of identification which may be accepted are a photocard driving licence, a passport or a recognised proof of age card which includes the 'PASS' hologram on it.</p> <p>15. The Licence Holder shall ensure that performers and members of the public have separate entrances for entering and exiting from the Premises, performers to use staff entrances.</p> <p>16. There shall be agreed in writing with the Council arrangements for restricted access to the dressing rooms used by the performers and such restricted access shall be maintained at all times until all performers using the dressing rooms have vacated the room.</p>
<b>Provision of Relevant Entertainment</b>	<p>17. The performance shall only take place in the designated area of the Premises approved by the Council and in accordance with the staging and seating plan approved by the Council.</p>

	<p>18. Performers shall only perform on the stage area or to seated customers or in such other areas of the Premises as may be agreed in writing with the Council. No audience participation in a performance shall be permitted. During the performance, performers shall not (a) touch customers, (b) climb onto furniture, or (c) simulate sex acts.</p> <p>19. There shall be no physical contact between the performers and customers before, during or after the performance.</p> <p>20. Notices setting out the restriction contained in Condition 19 shall be displayed in prominent positions within the Premises.</p> <p>21. Performers not currently performing shall not be in any public part of the Premises in a state of undress.</p> <p>22. Any person who touches or attempts to touch a performer or directs lewd, vulgar or obscene language or gestures thereto shall be immediately removed from the Premises by the Licence Holder or member of staff acting on his behalf.</p>
<p><b>Signs, doors and window display</b></p>	<p>23. A notice shall be displayed in a conspicuous position at each entrance to any part of the Premises where the performance is to take place stating that 'NO PERSON UNDER 18 YEARS WILL BE ADMITTED'. The notice must also include a statement that proof of age may be required.</p> <p>24. The business or trading title of the Premises which must have received the prior written approval of the Council (in accordance with condition 44 hereof) <u>may</u> be displayed in letters no more than 150mm high.</p> <p>25. With the exception of the signs required and permitted by condition 23 and 24 above, the Licence Holder must ensure that no sign, words, poster, photograph, sketch, painting, display or advertisement is displayed outside or in the vicinity of the Premises which indicate or suggest that Relevant Entertainment takes place at the Premises.</p> <p>26. The exterior design of the Premises shall be such that the interior of the Premises is invisible to passers by.</p>

	<p>27. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.</p> <p>28. 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.</p> <p>29. The windows and openings of the Premises shall be of a material or covered with a material which will render the interior or any items within the Premises invisible to passers-by.</p>
<p><b>Employment of persons on the Premises</b></p>	<p>30. The Licence Holder, or some responsible person over the age of eighteen nominated by him in writing for the purpose, shall be in charge of and upon the Premises at all times that the Premises is open to the public. Such written nomination shall be continuously be available for inspection at the Premises by a Police Officer or by an authorised officer of the Council.</p> <p>31. In addition to the Licence Holder or nominated person, there shall be a nominated female present to oversee the activities of female performers and a like nominated male present to oversee the activities of any male performers.</p> <p>32. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises</p> <p>33. A notice showing the name of the person in charge of the Premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be seen by customers throughout the period during which he is responsible for the conduct of the Premises.</p> <p>34. The Licence Holder shall at all times keep and</p>

	<p>maintain at the Premises a written record of the names, addresses and dates of birth of all persons employed within the licensed premises whether upon a full time or part time basis, and shall upon request by an authorised officer of the Council make such records available for inspection to him.</p> <p>35. Any individual employed on the Premises to conduct a security activity (within the meaning of the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.</p> <p>36. A register of SIA staff working at the premises shall be maintained, kept at the premises and made available for examination upon request to a Police Officer or authorised officer of the Council or the SIA.</p> <p>37. The Licence Holder must ensure that a suitable number of trained staff are employed to supervise the interior of the Premises whilst performances are being given.</p> <p>38. Performers shall be aged not less than 18 years. The Licence Holder must maintain complete records of the names, addresses and dates of birth of performers including identity checks which are satisfactory to the Council.</p>
<b>Alterations to the Premises</b>	<p>39. No alterations (including temporary alterations) shall be made to the Premises without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.</p> <p>40. Where alterations necessitate the Premises being closed for a period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work</p>
<b>Change of use</b>	<p>41. No change of use of any portion of the Premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this includes a change from one class of sex establishment (e.g. a sex shop) to a different class of sex establishment (e.g. a sex cinema).</p>
<b>CCTV</b>	<p>42. A CCTV system will be installed at the premises to the satisfaction of the Police Licensing Officer</p>



	<p>and it must record at all times the Premises are open to the public. Unedited images must be retained for at least 31 days and copies made freely available upon request to the Police or an authorised officer of the Council.</p> <p>43. At all times the Premises are open to the public there will be a member of staff on duty who is competent to operate the CCTV system and to provide any copies requested</p>
<b>Business title</b>	<p>44. The Licence Holder must obtain the consent of the Council for the business or trading title to be used in relation to the Premises. An application must be made to the Council to change the business or trading title and the Council shall have the discretion to allow or refuse such a change.</p>

APPENDIX 4

**SEXUAL ENTERTAINMENT VENUES**  
**Schedule 3, Local Government (Miscellaneous Provisions) Act 1982**

**COMMITTEE PROCEDURE**

1	<b>Chairman</b>	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing;
2	<b>Licensing Officer</b>	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	<b>Committee Members</b>	May ask questions of the Licensing Officer
4	<b>Applicant</b>	Will present his/her case, calling witnesses, as appropriate.
5	<b>Police (if they have made representations)</b>	The Police may ask <u>questions</u> of the applicant, by way of clarification.
6	<b>Objectors</b>	To be invited to ask <u>questions</u> of the applicant, by way of clarification.  <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	<b>Committee Members</b>	Each in turn may ask <u>questions</u> of the applicant.
8	<b>Applicant</b>	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	<b>Police (if they have made representations)</b>	Will make their representations (if any).
10	<b>Applicant</b>	Or his representative or witnesses to ask <u>questions</u> of the Police by way of clarification.
11	<b>Objectors</b>	May ask <u>questions</u> of the Police, by way of clarification.
12	<b>Committee Members</b>	May ask <u>questions</u> of the Police
13	<b>Objectors</b>	The objectors will be invited to speak and to present the basis of their objections.
15	<b>Applicant</b>	Or his representative or witnesses may ask <u>questions</u> of the objectors by way of clarification.
16	<b>Committee Members</b>	May ask <u>questions</u> of the objectors
17	<b>Chairman</b>	To invite both <b>Police</b> and <b>Objectors</b> to make their closing addresses.
18	<b>Applicant</b>	Or his representative will <u>briefly summarise the application</u> and comment on the representations made.
19	<b>Committee</b>	<u>Will retire</u> to consider the application.
20	<b>Committee</b>	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing.



## **CHESHIRE EAST COUNCIL**

### **REPORT TO: LICENSING COMMITTEE**

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**Date of Meeting: 13<sup>th</sup> September 2010**

**Report of: Licensing Manager**

**Subject/Title: REVIEW OF HACKNEY CARRIAGE SERVICE**

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#### **1.0 Report Summary**

- 1.1 The report provides details of a proposal in relation to a comprehensive review of the hackney carriage service across each of the three zones within Cheshire East Borough Councils area.

#### **2.0 Recommendations**

- 2.1 The Licensing Committee is requested to set aside its decision of 18<sup>th</sup> January 2010 (minute number 80) and to substitute it with a decision to recommend that a review of the hackney carriage service, as set out within the report, is undertaken.

#### **3.0 Reasons for Recommendations**

- 3.1 The report recommends a comprehensive review of the policies and procedures relating to hackney carriages in order to address the disparities across the three zones and to develop a consistent approach within the Borough.

#### **4.0 Wards Affected**

- 4.1 All

#### **5.0 Local Ward Members**

- 5.1 All

#### **6.0 Policy Implications including - Climate change - Health**

- 6.1 The report suggests a review of a number of issues relating to the Council's existing policy on the licensing of hackney carriages. Full details are set out within the body of the report.

#### **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 None

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 There will be costs associated with a consultation exercise which are estimated to be in the region of £25,000. Recent discussions with representatives of the Hackney Carriage Associations have indicated agreement that these costs will be taken into account in reviewing the hackney carriage licence fees, and recovered over three years.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 The Council has the power, in accordance with section 37 of the Town Police Clauses Act 1847 to licence hackney carriages.

9.2 Quantity controls - section 16 of the Transport Act 1985 provides that the grant of a hackney carriage licence may be refused for the purpose of limiting the number of licensed taxis "if but only if the person authorised to grant licences [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet."

A decision to impose a limit on the number of hackney carriages may be taken at any time subject to the requirement that the decision is not *Wednesday* unreasonable and the authority can properly satisfy itself that there is no significant unmet demand. The evidential basis for a decision to limit the number of hackney carriages is provided by way of a formal 'unmet demand survey.' Case law suggests that a decision to remove a limit on the number of hackney carriages may be taken at any time, subject to the requirements (i) that full and genuine consultation is undertaken (although there is no requirement to provide evidence of demand by an unmet demand survey); and (ii) that the decision is not *Wednesday* unreasonable.

9.3 Setting 'table of fares' - section 65 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the following is required when varying a table of fares:

- (i) publication of a notice setting out the variation to the table of fares (specifying the period within and manner in which objections can be made) in at least one local newspaper circulating in the district; and
- (ii) deposit of the notice for the period of fourteen days at the offices of the Council (for public inspection)

If no objection to the variation is made within the relevant fourteen day period (or if all such objections are withdrawn) the variation comes into operation on the date of the expiration of the period specified in the notice (or the date of withdrawal of the last objection (if any)). If objection is made and not withdrawn, a further date (not later than 2 months after the first specified date)

shall be set on which the table of fares shall come into force with or without modifications as decided after consideration of the objections.

- 9.4 Conditions - section 47 of the 1976 Act provides local authorities with the power to attach to hackney carriage licences such conditions as they may consider 'reasonably necessary.'
- 9.5 Hackney carriage stands - section 63 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the legal procedure involved in the creation of hackney carriage stands (known as 'ranks'). The procedural steps include: (i) a requirement that the consent of the highway authority is obtained (where the stand is to be on a public highway); (ii) service of a notice on the Police; and (iii) publication of a public notice in a local newspaper making provision for consultation responses within 28 days. Any consultation responses received would need to be taken into consideration before any final determination was made.

The amendment of existing ranks and the creation of new ranks may require amendments to traffic regulation orders made under the Road Traffic Regulation Act 1984.

## **10.0 Risk Management**

- 10.1 Any decision in relation to the policy matters detailed within the report must be carried out in accordance with the statutory requirements detailed within paragraph 9 above. Compliance with the statutory requirements and full consideration of consultation responses will mitigate the risk of challenge to any such decisions.

## **11.0 Background and Options**

- 11.1 Members will recall that on 18<sup>th</sup> January 2010 the Committee considered a report in relation to a proposed consultation on the policy of limiting the number of hackney carriages within the Congleton zone (zone 1). As Members will be aware, the Congleton zone currently has a policy of limiting the number of hackney carriages whilst both the Macclesfield and Crewe zones are 'delimited' in relation to numbers. The report to Members on 18<sup>th</sup> January 2010 suggested that before a decision can be taken as to whether the zones should be retained, the Council needed to determine the position in relation to the limitation of numbers (as it would not be possible to remove the zones if the position in relation to limitation remained different between the three areas). Having considered the report Members resolved as follows (minute number 80):

*That the Licensing Committee authorise the Licensing Manager to carry out a consultation exercise, as set out within the report, relating to the policy of limiting the number of hackney carriages within the Congleton zone of the Council's area.*

- 11.2 Since the date of the Committee's original decision, a number of representations have been received from members of the hackney carriage trade associations and local MP's . Concerns focus on the current policy within the zones of Macclesfield and Crewe of not imposing a numerical limit on hackney carriages; however the following matters have also been highlighted:
- the variety of fares charged to the public across the three zones:
  - the existing licence terms and conditions in relation to hackney carriage vehicles and drivers across the three zones
  - the accessibility and availability of the service for the public including rank provision and location.

All these issues would eventually need to be resolved in order to finally remove the existing zones and provide a seamless service to the public.

- 11.3 In discussion with the representatives of the three Hackney Carriage Associations, a proposal has been formulated in relation to a wide-ranging review of the hackney carriage licensing function. It is suggested, that in order to address the disparities across the three zones and to develop a consistent approach within the Borough, a comprehensive review of the policies and procedures relating to hackney carriages will be undertaken. The issues which would be addressed as part of this review would include:

#### 11.3.1 **Service Levels**

As set out with paragraph 9 above, the legal position in relation to quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed taxis "if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet."

As recognised above, as a result of the position inherited from the predecessor district Councils, Cheshire East Borough Council currently consists of two zones in which there is no limit on numbers and one zone which retains a limit. It is proposed that the review would extend the consultation proposed within the report to Licensing Committee on 18<sup>th</sup> January 2010 from a consultation on the principle of quantity control in the Congleton zone to a consultation encompassing the Borough as a whole. It is suggested that this consultation would not take the form of a formal unmet demand survey, but rather a consultation with the trade, public and relevant stakeholders to inform a future decision about Hackney Carriage service levels within the whole of the new Borough area.

#### 11.3.2 **Hackney Carriage Fares**

As the licensing of hackney carriages within Cheshire East remains on a zoned basis, it is not possible to set a 'table of fares' which relates to the Borough as a whole and the tariffs in force therefore remain zoned. The



current tariffs came into force within the areas of the predecessor district Councils during the course of 2008 (Congleton – 1 April 2008; Crewe & Nantwich – 29 September 2008; and Macclesfield – 16 April 2008). The Department of Transport Best Practice Guidance (February 2010) states that the Department “sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week.”

A review in this area could consider the differences between the current fare structures and make proposals in relation to possible variations to the existing tables of fares. As set out within the legal implications at paragraph 9 above, any variation to a table of fares would need to be progressed in accordance with the requirements of section 65 of the Local Government (Miscellaneous Provisions) Act 1976, which involves a public notice in local newspapers and the consideration of any representations which are made within the consultation period.

#### **11.3.3 Existing terms and conditions**

As a result of zoning, conditions inherited from the predecessor district authorities still apply to hackney carriage vehicles. The requirements imposed by the conditions currently vary between the three zones, for example new hackney carriages in the Congleton and Crewe zones must be wheelchair accessible, whilst there is no such policy in the Macclesfield zone. There are also further differences relating to the specification of vehicle which will be accepted for licensing as a hackney carriage; for example the size limits (both minimum and maximum) which apply to hackney carriage vehicles in the Macclesfield zone do not apply in either Crewe or Congleton.

The review will consider the differences between the existing conditions and seek views on possible amendments.

#### **11.3.4 Provision and location of taxi ranks**

It is suggested that the comprehensive review would encompass detailed consideration of the existing rank provision in each of the three zones together with consultation with the trade and members of the public about possible amendments to rank provision.

The legal procedure in relation to the creation of hackney carriage stands is set out within section 63 of the Local Government (Miscellaneous Provisions) Act 1976 and includes the publication of a notice in local newspapers providing a period of twenty-eight days within which consultation responses may be made. Any consultation responses received would need to be taken into consideration before any final determination was made.

#### **11.4 Alternative Options**

The alternatives to this proposal would be as follows:

- 11.4.1 to take no action in relation to consultation at this stage – it is suggested that it is necessary to take action to progress harmonisation across the three zones;
- 11.4.2 to carry out separate consultations in relation to individual zones – the original decision on 18<sup>th</sup> January 2010 was to consult in relation to the Congleton zone, however for the reasons set out within the report, it is suggested that a more comprehensive review is now appropriate;
- 11.4.3 to recommend that a formal unmet demand survey is carried out (either in one or all of the zones). As set out within the legal implications above, an unmet demand survey is required to support a policy of limiting the numbers of hackney carriages, there is no requirement to carry out an unmet demand survey in relation to a policy of 'de-limitation'. It is suggested that a review, as detailed within the report, dealing with all the relevant issues will inform a decision about the Council's policy in relation to hackney carriage licensing. A decision about whether it is appropriate to undertake formal unmet demand surveys may be taken in the light of information obtained as part of the review.
- 11.5 The Council recognises that taxis are an important part of the local transport system and can contribute to an overall reduction in traffic congestion, improving air quality. In addition they play a vital role in getting people home after a night out, reducing the likelihood of alcohol-related disturbance and disorder in our towns. The proposed review will ensure the Councils future policy can take full account of these issues and ensure the taxi trade itself can contribute effectively to the broader well being of our towns and villages.

## **12.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## CHESHIRE EAST COUNCIL

### LICENSING COMMITTEE

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**Date of meeting:** 13<sup>th</sup> September 2010

**Report of:** Allison Jackson, Licensing Enforcement Officer

**Title:** Renewal of Sex Shop Licence - 74, Edleston Road, Crewe, Cheshire

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#### **1.0 Report Summary**

- 1.1 This report is to request that the Licensing Committee consider the application for the renewal of the Sex Shop Licence relating to premises at 74, Edleston Road, Crewe

#### **2.0 Recommendations**

- 2.1 The Committee is asked to determine the application for the renewal of the Sex Shop Licence relating to 74 Edleston Road, Crewe.

#### **3.0 Reasons for Recommendations**

- 3.1 The Committee has the delegated authority to determine this application.

#### **4.0 Wards Affected**

- 4.1 Crewe South Ward

#### **5.0 Local Ward Members**

- 5.1 David Cannon, Dorothy Flude, Betty Howle

#### **6.0 Policy Implications including - Climate change, Health**

- 6.1 The Council has not adopted a policy in relation to the licensing of sex shops, although a set of standard conditions (a copy of which are appended to the report) has been adopted.

#### **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 None.

#### **8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

- 8.1 None.

## **9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the grant, renewal and transfer of licences for sex establishments (which include sex shops as defined within paragraph 4 of Schedule 3). Schedule 3 provides that where, before the date of expiry of a licence, an application has been made for its renewal, it shall be deemed to remain in force until the withdrawal of the application or its determination by the Council.
- 9.2 Paragraph 12 of Schedule 3 contains a number of grounds for refusal of the grant or renewal of a sex establishment licence. The paragraph contains certain grounds (such as a requirement that the applicant is over the age of eighteen) which are mandatory, and other discretionary grounds as follows:
- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
  - (c) that the number of sex establishments in the relevant locality at the time the application is made 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.
- 9.3 Paragraph 13 of Schedule 3 provides the authority for the Council to “make regulations prescribing standard conditions applicable to licences for sex establishments.” The Council has adopted standard conditions in relation to sex establishments (a copy of which is attached as an appendix to the report). Paragraph 13 of Schedule 3 provides that where authority has made standard conditions every licence granted, renewed or transferred is presumed to have been granted, renewed or transferred subject to the standard conditions unless they have been expressly excluded or varied.

## **10.0 Risk Management**

- 10.1 Any hearing to determine an application will be carried out in accordance with the rules of natural justice. Schedule 3 of the 1982 Act provides for certain rights of appeal to the Magistrates’ Court in relation to the decision of the Licensing Committee.

## **11.0 Background and Options**

- 11.1 An application has been received from Darker Enterprises Ltd to renew the Sex Shop Licence for the Private Shop at 74 Edleston Road, Crewe, Cheshire, which expired on the 5<sup>th</sup> August 2010.
- 11.2. Darker Enterprises Ltd have held a Sex Shop licence since 2002 which was granted by Crewe and Nantwich Borough Council Regulatory Committee on the 22<sup>nd</sup> March 2002. Since the date of the original grant the licence has been renewed each year. The premises are situated in Edleston Road Crewe which is made up of part residential premises and part shops and offices. The licence, which is subject of the renewal application, authorises the use of the premises as sex shop for the following days and hours: Monday to Saturday 9.30am to 20.00 hrs, Sunday 10am to 16.00 hrs.
- 11.3 An objection has been received in response to the notice of renewal application about the poor condition of the property, which states that "The property is dilapidated, a health and fire risk and not nice to the families in the street.
- 11.8 In the circumstances, the Licensing Committee is requested to consider whether to grant Darker Enterprises Ltd the application to renew their Sex Shop Licence for 74, Edleston Road, Crewe.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 Not applicable.

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## **CHESHIRE EAST**

### **SEX SHOP LICENCE – STANDARD CONDITIONS**

#### **1. Definitions**

1.1 These conditions are imposed by the Council pursuant to its powers under paragraph 13(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

1.2 In these conditions, unless the context otherwise requires:

‘Approval of the Council’ or ‘Consent of the Council’ means the approval or consent of the Council in writing.

‘Approved’, ‘accepted’, or ‘permitted’ means approved, accepted or permitted by the Council in writing.

‘Approved arrangements’ means the arrangement of the premises, fittings, installations and all other things in connection therewith as approved by the Council.

‘Council’ means Cheshire East Council.

‘Licensee’ means the holder of a sex establishment licence.

‘Officer’ means any person authorised in writing by the Council.

‘Premises’ means any premises within the Council’s area licensed as a sex establishment and includes all installations, fittings and things in connection therewith.

‘Sex Establishment’, ‘Sex Shop’, and ‘Sex Article’ shall have the meanings ascribed to them in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

#### **2. Exhibition of Licence**

2.1 The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises. The licence shall be adequately protected against theft, vandalism or defacement.

#### **3. Opening Hours**

3.1 The premises shall not be open for any purpose of the licence except during the following hours:

Mondays to Saturdays from 9.30 \*am to 8.00 \*pm  
Sundays from 10 \*am to 4 \*pm

*\* insert hours as granted*

#### **4. Conduct of the Premises**

- 4.1 The licensee shall maintain good order and take all reasonable precautions for the safety of the public and employees and, except with the consent of the Council, shall retain control over all portions of the premises.
- 4.2 The licensee shall in particular ensure that none of the following shall take place:
- Indecent behaviour, including sexual intercourse;
  - The offer of any sexual or other indecent service for reward.
- 4.3 The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been specified in the licence.
- 4.4 The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes. Solicitation shall be taken to include the distribution of leaflets.
- 4.5. The licensed premises shall be used only for the purposes specified in the licence.
- 4.6 No person under the age of 18 years shall be admitted to the premises or be employed in the business of the sex establishment.

#### **5. Signs, Doors and Shop Window Display**

- 5.1 The business or trading title of the premises which must have received the prior written approval of the Council may be displayed in letters no more than 150mm high.
- 5.2 A notice no greater in size than 297mm by 210mm may be displayed stating the opening hours of the premises.
- 5.3 An application to change the business or trading title of the premises must have received the prior written approval of the Council. The Council shall have the absolute and unfettered discretion to permit or to refuse such a change.
- 5.4 A sign must be displayed over the entrance door stating in letters no more than 75mm high:

“WARNING  
PERSONS PASSING BEYOND THIS NOTICE WILL FIND  
MATERIAL ON DISPLAY WHICH THEY MAY CONSIDER  
INDECENT  
NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE”



- 5.5 No sign, words, poster, photograph, sketch, painting, display or advertisement shall be displayed outside or in the vicinity of the premises except for the premises number and/or as mentioned in conditions 5.1 and 5.2.
- 5.6 The exterior design of the premises shall be such that the interior of the premises is invisible to passers by. A scheme showing the exterior design and trading name of the premises shall be submitted to and approved by the Council before the premises are opened for business.
- 5.7 External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 5.8 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.
- 5.9 The windows and openings of the premises shall be of a material or covered with a material which will render the interior or any items within the premises invisible to passers-by.
- 6. Employment of Persons on the Premises**
- 6.1 The licensee or some responsible person over 18 years of age nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection at the premises by a police officer or an officer authorised in writing by the Council.
- 6.2 The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.
- 6.3 A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be seen by customers.
- 6.4 The licensee shall at all times keep and maintain at the licensed premises a written record of the names, addresses and dates of birth of all persons employed within the licensed premises whether upon a full time or part time basis, and shall upon request by an authorised officer of the Council make such records available for inspection to him.

**7. Responsibility of the Licensee**

- 7.1 Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the control or management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director secretary or manager are to be furnished within 14 days of a request in writing from the Council.
- 7.2 The licensee shall inform the Council within seven days if he is convicted of any offence.

**8. Alterations to the Premises**

- 8.1 No structural alterations (including temporary alterations) shall be made to the premises without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.
- 8.2 Where alterations necessitate the premises being closed for a period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.

**9. Change of Use**

- 9.1 No change of use of any portion of the premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this includes a change from one class of sex establishment (e.g. a sex shop) to a different class of sex establishment (e.g. a sex cinema).

**10. Food etc**

- 10.1 No food or refreshments shall be served at the premises save to bona fide members of staff employed on the premises.

**11. Music etc**

- 11.1 No amplified music of any kind shall be played on the premises.

**12. Goods Available in Sex Shop**

- 12.1 All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the maximum respective prices being charged.
- 12.2 All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be prominently displayed within the sex establishment.

- 12.3 No film or video shall be exhibited, sold or supplied unless it complies with the Video Recordings Act 1984 and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

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