



APPENDIX C

*HOPE IN NORTH EAST CHESHIRE
RESPONSE TO THE CHESHIRE EAST BOROUGH
COUNCIL
DRAFT POLICY ON THE LICENSING OF SEXUAL
ENTERTAINMENT VENUES*

DECEMBER 2010

Executive Summary

1. **Hope in North East Cheshire** which represents 39 churches in Macclesfield and surrounding areas, welcomes the opportunity to respond to this consultation.
2. We wholeheartedly support the Council adopting the amendments to Schedule 3 of the 1982 Act and introducing a new regime for the regulation of sexual entertainment venues in the Borough. However, the draft policy in this consultation only covers sexual entertainment venues such as lap-dancing venues, and not other sex establishments such as sex shops or sex cinemas.
3. Since the Licensing Act 2003 came into force there has been a vast increase in the number of lap dancing clubs around the country. In 1997 there were 24 venues; now there are approximately 300. Local businesses, places of worship, and local residents are often dismayed at the proliferation of these clubs due to the effect they have on local areas. The clubs can create an uncomfortable atmosphere for local people, including women and children, who may feel unsafe within the immediate vicinity, where men leaving the premises may be both intoxicated with alcohol and sexually aroused.
4. We were grateful to the Licensing Committee for refusing a lap dancing application for Repent Nightclub in Macclesfield, in January 2010. The restrictions in the Licensing Act meant that only those who lived or worked near this proposed venue were counted as relevant objections. In Macclesfield this meant that about 450 objected to Repent Nightclub becoming a lap dancing venue but only about 45 objections were counted as relevant.
5. We support the Council adopting the new regime and hope it is accompanied by a more robust policy. A positive change of adoption is that local people are allowed to have a greater say during the decision-making process with objectors not being restricted to those who just live or work near the proposed venue. We recommend that the draft policy in paragraph 4.4. is amended to clarify that the Act is widely drafted and make it explicit that it allows “any person” to object within the required period.ⁱ
6. A further positive change is that the new regime allows local authorities to refuse an application for a licence on potentially wider grounds than is currently permitted under the 2003 Licensing Act. These include the number of similar premises in the locality, the character of the locality and the use of other premises in the vicinity.
7. We submit that the level of fees proposed; £2,260 for a new application, £1,130 for a renewal, and £500 for transfer, are too low. Such applications may be controversial and generate a high level of response, resulting in more administrative work for the Council. We believe that the fee levels should reflect this to be cost effective. Therefore, the fees suggested could be as follows: new application £8,000, renewal £5,000, transfer fee £1,100.ⁱⁱ
8. Whilst case law has determined that the Council is not able to define “locality” as the whole of the administrative area, an examination of case law does not support the assertion that the Council is not able to determine the entire town as a relevant locality. In fact, other Council policies have done so, even determining that the relevant number of sexual encounter venuesⁱⁱⁱ for the town centre is zero.
^{iv} Therefore, “or an entire town” in the last sentence of paragraph 3.6. should be deleted, as such a

description may be misinterpreted and unnecessarily fetters the council discretion on the definition of what is, and what is not the relevant “locality”.

9. It should be noted in the policy that existing licences under the transitional measures can be refused and that there are no ‘grandfather rights’ for existing venues who will in future have to apply for a new type of licence. The policy does not include any comments on the EU services Directive.^v It is important that the Cheshire East policy makes these points clear.
10. The Cheshire East draft policy has a neutral approach to the licensing of sexual entertainment venues. In paragraph 3.7, it states that the Council does not seek to place a figure on the number of sexual entertainment venues it considers appropriate in any locality, but will consider the number suitable for that locality and the Council is able to determine the appropriate number is nil.
11. In general terms, we would like to see a much more robust policy which shows a zero tolerance of such establishments, as can be found in the draft policy of Haringey (Nil per ward) and the policy of Mid Sussex District Council.^{vi} A robust type of policy would provide the most protection for Cheshire East to achieve greener, cleaner, sustainable communities and neighbourhoods to enable a good quality of life for all.^{vii} A suitably worded policy would not prevent each case being treated on its merits but it would make it easier for the Council to use its discretion to reject such applications should it choose to do so, which is the aim of the new regime. The Oldham Council proposed policy specifies nil per town centre and has a robust policy for other areas for the relevant number, in the description of an unsuitable locality.^{viii}
12. Mid Sussex District Council operates a zero tolerance policy on sex establishments. The zero policy on sex entertainment venues does not prevent applications being made to the Council for such licences. Any application must be considered by the Licensing Committee in accordance with the principles and guidelines contained in the policy. Whilst it will consider each application on its merits and relevant representations, it also details why main town centres, smaller towns, villages and rural communities, business parks and industrial estates are not suitable for sexual entertainment venues for various reasons. It is important that any description makes it clear that this is a non-exhaustive list.^{ix} It would be helpful if Cheshire East’s policy was redrafted in more robust terms to provide reasons why a wide range of locations are not suitable for such venues.^x
13. The policy for Cheshire East only covers sexual entertainment venues. Many other Councils’ have covered all sex establishments in their new policies. Cheshire East does not have a policy for sex shops and sex cinemas and it would be useful if this draft policy is adopted to consider the need to consult upon and amend this policy to include all sex establishments, which in our submission should also be based upon a zero tolerance policy.^{xi}
14. In summary, as well as adopting the new regime a more robust policy would be helpful for local people, including extending the list of inappropriate characteristics of the relevant locality, more conditions on lap dancing in Appendix 3 and allowing local people more of a say in the Committee procedure.

Response to Consultation¹

3.6 Relevant locality

1. Please see paragraph 8 of the Executive summary. The case of *Misbehaving Ltd 2004*, describes the case of *Quietlynn Limited -v- Peterborough City Council* (1986) 85 LGR 249, a Court of Appeal case in relation to the issue of relevant locality.^{xii}
2. The reference to "or an entire town" in the last sentence of paragraph 3.6. may be subject to misinterpretation, fetter council discretion and unnecessarily narrows the definition of locality in each case. It is therefore suggested that these words are deleted because case law does not appear to support this requirement.^{xiii}

3.8 Character of the relevant locality and use of premises in the vicinity

3. It would be helpful for local people to extend the stipulations on the inappropriate list of characteristics where sex establishments will be generally considered as such. The intention of the new regime is to allow local people to have a greater say over the regulation of lap dancing clubs and similar venues in their area.^{xiv} A more extensive list will assist that aim.
4. It is suggested that the current list is changed from:
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.

Proposal to change to: *Applications made for a Sexual Entertainment Venue Licence will not generally be deemed appropriate if the premises is near or in a location or area containing any of the following:*

- (i) Historic buildings, restoration areas, improvement areas, planned improvement areas, conservation areas or tourist attractions;*
 - (ii) Transportation areas including but not limited to bus stops, bus terminals, train stations;*
 - (iii) Schools, play areas, nurseries, children's centres or similar premises;*
 - (iv) Shopping areas;*
 - (v) Residential accommodation;*
 - (vi) Places of worship;*
 - (vii) Community facilities or public buildings including but not limited to swimming pools, leisure centres, public parks, youth centres/clubs, mental health centres, disability centres, and sheltered housing;*
 - (viii) Other retail units (and their uses);*
 - (ix) Alcohol or entertainment licensed premises;*
- The above from (i) to (ix) also including but not limited to, access to and from such places.*

¹ Detailing the paragraph of the policy to which the comments relate.

5. The main reason for the suggested changes is to take account of approaches by other Councils' policies or draft policies that have a far more extensive list in determining the inappropriate character of a relevant locality for sexual entertainment venues.^{xv} This does not prevent the Council exercising its own discretion on an individual application basis, but it does mean that should the Council decide a locality is inappropriate then the draft policy will help to support such a decision.

6. The draft policy for Cheshire East suggests (a) *an area predominantly comprising residential accommodation*. The removal of the description "an area predominantly comprising" would be helpful. Policies or draft policies by other Councils are more extensive and simply refer to residential accommodation/areas (Oxford City Council /Oldham Council and South Hampshire District Council).

7. The draft policy for Cheshire East suggests (b) *parks and children's play areas*, (c) *schools and youth centres*; (e) *community facilities*. This fails to provide adequate protection for children and the vulnerable. The list is not as extensive as proposed in (iii) and (iv) above or by other policies such as that of South Hampshire District Council. The prevention of locating a sex establishment close to mental health centres, disability centres and sheltered housing is also important in protecting the vulnerable in society. Swimming pools and leisure centres are likely to be places sensitive to usage by children and families which also have not been included.

8. Oxford City Council's policy suggests that Historic Buildings or tourist attractions are relevant as inappropriate localities, and these have not been included in the Cheshire East Policy. The proposal being made here in (i) also includes restoration areas, conservation areas, improvement or planned improvement areas. The reason for these proposed inclusions is because the character of the relevant locality is likely to be detrimentally effected in such areas by a sex establishment.

9. Case law supports the fact that sex establishment renewals do not have to be granted. In the London Borough of Wandsworth case,^{xvi} the licence was not renewed because of the change in the locality brought about by improvement initiatives. This decision was upheld despite the fact that the applicant had improved his premises. This case supports the insertion in the list of character of the relevant locality of improvement areas being inappropriate for the location of sex establishments. This is of particular concern for Macclesfield as there are a number of initiatives being undertaken to improve Macclesfield town centre including *Create a Difference in Macclesfield*.^{xvii}

10. Earlier this year when a lap dancing application was made by the Repent nightclub in Macclesfield; It was of great concern that the proposed location was right next to a bus stop and central bus station where women and children would be waiting alone at night. It raised concerns of public safety including fear of crime due to the possibility of women and female young people in the vicinity encountering men leaving the club under the influence of both alcohol and sexual stimulus.

11. Assuming the rules of the club are properly followed and the premise does not operate as a brothel, it is likely that men will leave the premises not only sexually stimulated but also sexually frustrated. Innocent women who may have no choice but to wait for a bus may become vulnerable targets for such pent up sexual frustrations. Hence, the suggested inclusion as inappropriate areas for the character of the relevant locality being: *Transportation areas including but not limited to bus stops, bus terminals, train stations*.

12. Unlike the Oldham Council's policy the draft policy does not include as inappropriate localities,(a) retail units (and their uses) and (b) being near alcohol or entertained licence policies. Crime and disorder may be

an issue and the use to which any premises in the vicinity including retail units are put is also relevant to the law under Schedule 3 of the 1982 Act, as well as considering the character of the relevant locality.^{xviii}

3.9 Conditions

13. We submit that the list of standard conditions for sexual entertainment venues needs to be amended and extended. Please see our response under the Appendix 3 heading.

4.0 APPLICATION PROCESS

4.1 Submission of application

14. A scale plan of the premises will provide insufficient detail for the application process. For example, the Mid Sussex District Council's draft policy^{xix} is much more detailed and suggests:

The form must be accompanied by the following:

- *five sets of floor plans, drawn to scale and showing all means of entry and exit, any parts used in common with any other building and indicating how the premises lie in relation to the street;*
- *five sets of plans showing the existing and front elevation of the premises depicting all signage;*
- *five sets of plans (scale 1:500) showing the sex establishment in relation to other premises within 100 metres;*
- *five sets of plans (scale 1:50) showing the layout of the sex establishment;*
- *the correct fee as set by the Council's Licensing Committee.*

15. It is important to state that the plans should always be provided in a large enough size to be easily read.

16. Paragraph 4.1 of the Cheshire East policy should also include (a) a warning of a fine of £20,000 if a false statement is made,^{xx} (b) the need for planning consents and (c) to allow for Council Officer access to the proposed venue.^{xxi}

4.3 Advertising requirements

17. In order to allow local people a greater say it is important that notices are displayed correctly so that they are fully drawn to the attention of local people. The notice displayed should be at the proposed site rather than on or near the premises unless it is impossible to place it on the premises or to do so would restrict it being noticed, in which case near would be acceptable. Advertising requirements should state that any notice must be posted in a prominent position for the whole of the time period allowed and so it can be easily read by passers-by. The size of the notice should be A3 with details printed legibly in black ink or typed in black in a font of a size equal to or larger than 16. It would be helpful to state that the application will not be considered if the advertising requirements have not been met.^{xxii}

4.4 Objections

18. Paragraph 4.4. should make it clear that the legislation in the Local Government (Miscellaneous Provisions) Act 1982 says that "any person" can object. Paragraph 4.4 gives the wrong impression that this includes only those groups mentioned and not individual persons. Churches and other places of worship are not mentioned. The LGMP Act 1982 is supposed to be much wider than the Licensing Act 2003 (because it does not have the requirement to live or have a business in the vicinity in order to object) and the

draft policy under consideration incorrectly gives the impression that persons who can object are from a much narrower field, which is not the case.^{xxiii}

4.5 Hearing procedure

19. We submit that the procedure could be amended to allow local people more of a say. Please see our response under Appendix 4.

Appendix 1 and Appendix 2

20. The application and advertising notice should be amended to take account of the above comments made under paragraphs 4.1. and 4.3. The size of the advertisement and font are particularly important for the partially sighted, and also to prevent them being missed by the general public.

21. The application could ensure that the applicant agrees that all staff whether employed or self-employed (as many lap dancers are) should have enhanced Criminal Record Bureau checks prior to working on the premises. This should also be a suggested licence condition.

22. There are no stipulations in the application process about accompanying fees, together with a warning that the licence application may be revoked if payment or suitable arrangement to pay is not made with the Council.^{xxiv}

23. The application and the public advertisement notice should specify and state the exact type of activity the application relates to. The Home Office guidance list the relevant entertainment as including: Lap dancing; Pole dancing; Table dancing; Strip shows; Peep shows; Live sex shows. As the list is not exhaustive an "other" category (please explain) should be included.

24. The application for a licence and the public advertisement notice should be clear to the general public detailing that the applicant for a sexual entertainment venue is making an application or renewal application to allow full nudity.

Appendix 2

25. The Notice on page 16, according to paragraph 4.3 of the draft policy needs to be labelled Appendix 2.

Appendix 3

Sexual Entertainment Venues Conditions

Comments on Conditions

Condition 3- Hours of Opening

26. Please consider amending the condition on the hours of opening to restrict them so that it does not include Sundays/Bank Holidays or public holidays. Christians regard Sunday as a day of religious significance for worship and rest. Bank Holidays also fall on days of religious significance such as Christmas and Easter. Public Holidays are likely to be times when more mothers and children are out and about. The opening times in the day should be restricted from 9am to 6pm. These measures would help to ensure the safety of women and children and help remove the uncomfortable fear of crime in the evenings.^{xxv}

Condition 4- The Responsibility of the Licence Holder

27. The Licence Holder should not only be responsible for the safety of the public and employees but also for any self-employed persons. Lap dancers often work in a self-employed capacity.

Condition 9-Unlawful Advertising

28. The condition is vague as to what unlawful means and contradicts the aims of condition 10 and conditions 23 to 29. We suggest that this should be replaced by a proposed condition 7(g) and 7(h) suggested by the police for the Repent Nightclub in Macclesfield application^{xxvi} at the start of this year, namely:

No nudity visible outside- Entertainment, including dancing, which involves nudity or sexual performance of any kind shall be visible from outside the premises.

No External Adverts- There shall be no display outside the premises of photographs or other images which indicate that entertainment involving nudity or sexual performance takes place on the premises.

Condition 11 –No Personal Solicitation

29. We submit that the last sentence of condition 11 could be improved by the addition of the words in red to be more specific about the description of what solicitation may include. *Solicitation shall be taken to include standing outside the premises scantily clad or not fully dressed or the distribution of leaflets or business cards.*

Condition 13 –No admission or employment in the business for under 18's

30. It would be helpful if this restriction made it clear that this age restriction also applied to the self-employed, as lap dancers are often self employed. *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. Employed includes being self-employed.*

Condition 19 and 20- Notices on No physical contact

31. It would be helpful if condition 20 could specifically add that such notices be included on every table. *Notices setting out the restriction contained in Condition 19 shall be displayed in prominent positions within the Premises including on every table.* In order to be more practical, condition 19 could add at the end of the sentence: *except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.*^{xxvii}

Conditions 23 and 44- Business or Trading Title

32. We would appreciate these conditions to add the following sentence: *The business or trading title must have particular regard to the need to not be religiously offensive.* Whilst not part of the Licensing Act considerations, Repent nightclub was previously called Preachers. The building itself in Macclesfield was formerly used for Christian Mission work. Both names for the club appeared to be mocking and taunting Christian beliefs on the importance of the need to repent from sin to obtain God's forgiveness and the preaching of God's message. The choice for names of the club was religiously insensitive to Christian beliefs and practice, and offensive in view of the previous use of the premises.

Condition 30-Employment of Persons on the Premises

33. The nominated person in charge holds a position of responsibility in such premises. It is unlikely that an 18 year old would have sufficient experience or expertise to undertake such a role. It is suggested that the age should be 25 or at the very least over 21.

Condition 41-Change of Use

34. It may be appropriate to consider a change in the example used as this draft policy only covers sexual entertainment venues, and not all categories of sex establishments.^{xxviii}

Appendix 3

Sexual Entertainment Venues Conditions

Suggested Additional Standard Conditions *in italics*

35. Performances (Please see Oxford City Council's Conditions)

-Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement.^{xxix}

Reason- This is a commonly known, clear and important rule usually found in lap dancing licence conditions. Whilst conditions 19 and 20 cover the no physical contact rule, it does not cover the important distance from the customer.^{xxx}

-No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.

-No audience participation shall be permitted.

-Signs displaying the rules concerning the performance relevant entertainment will be displayed throughout the premises and be clearly visible to patrons. This will include any private booth area.

-In the event that the relevant entertainment be performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designated for private relevant entertainment.

-All dance booths are to be equipped with a panic alarm for safety.

- At all times during the performance, performers shall have direct access to a dressing room without passing through, or in close proximity to the audience.

-On leaving the premises, performers who wish to be, shall be escorted by a staff member to their vehicle or other safe location.^{xxxii}

Reason- To help prevent prostitution, for the health and safety of the performers and audience and for consumer price protection.

36. Performances (Please see Cornwall Council's Draft Policy Conditions).^{xxxii}

- *Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where relevant entertainment may be provided.*
- *At the conclusion of performances all articles of clothing removed during that performance must be put back on. This does not prevent performers going to their non-public changing area to change their attire.*
- *Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.*
- *Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.*
- *The Licensee must ensure that during the performance of a table or lap dance:*

- (1) *customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;*
 - (2) *customers must remain seated during the entire performance of the dance;*
 - (3) *for the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;*
 - (4) *Performers must not sit on, or straddle the customer;*
 - (5) *Performers must not place their feet on the seats.*
- *The Licensee must ensure that during performances of relevant entertainment:*
- (1) *Performers may not perform any act that clearly simulates any sexual act;*
 - (2) *Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;*
 - (3) *Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;*
 - (4) *Performers may not use inappropriate, suggestive or sexually graphic language at any time;*
 - (6) *Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;*
 - (7) *Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.*
- *The Licensee must ensure that during performances of relevant entertainment:*
- (1) *Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.*
 - (2) *Customers must remain appropriately clothed at all times.*

Reason- To help prevent prostitution, and for the health and safety of the performers and audience.

37. Door Supervisors (see Oldham Council's Proposed Sexual Entertainment Policy)

-A minimum of 4 SIA door supervisors shall be on duty when the premises or open to the public. The door supervisors should be so positioned so that 2 are present at all times on the entrance to the premises, at least 1 door supervisor should patrol the public areas and at least one door supervisor should monitor the interaction between any performer and their customer. Where the premises has more than one entrance there must be at least 2 door supervisors per entrance. A written record should be kept of all door supervisors employed and this record should have, at the minimum, the following amount of information. Name, SIA badge number, time shift started, time shift finished, signature, date.^{xxxiii}

Reason- The current conditions 35 and 36 need to be supplemented as they do not even have a requirement for any number. This condition is to ensure the security and safety of the public and performers.

38. Door Supervisors-Night safe condition.

-High visibility fluorescent jackets to be worn by all door supervisors whilst outside the premises.

Reason- To help identify the door supervisors from the customers, and for night visibility safety reasons. Bedfordshire Police in their guidance on preparing an operating schedule under the Licensing Act state that: *Door Supervisors working at or on the door must wear fluorescent jackets. This is to ensure that they are easily identifiable by the public, police and CCTV operators.*^{xxxiv}

39. An operating manual and club rules (Please see Oxford City Council's Conditions).^{xxxv}

(Replace Thames Valley Police with Cheshire Police where appropriate):

Management Operation Manual

- A Management Operation manual detailing all aspects of procedure when the premises is operating relevant entertainment shall be produced and approved by Thames Valley Police. This document shall be on going and under constant review. **The management operation manual should be always available for public inspection and the first version should be publicly available for scrutiny with the application for a licence.**

Club Rules

-The premises must provide a copy of its Club Rules to the Council and Thames Valley Police. **The Club Rules should be always available for public inspection and the first version should be publicly available for scrutiny with the application for a licence.**

- All performers and staff shall be aware of the Club Rules.

- All dancers, staff and door supervisors shall read a copy of the rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the premises as part of their due diligence.

Reason- To improve the management and control of the premises and for police input to this end. To the condition provided by Oxford City Council has been added the need to have this management operation manual with the application for the licence. The absence of an operation manual in an application is unusual and demonstrates a lack of, or poor management considerations. The absence of such a manual should be part of the grounds for considering rejecting the application. The manual should be specific to the proposed application and not a poor imitation of other manuals. The application should also include the Club rules and the proposed contract with lap dancers again specific to the proposed application, and not a poor imitation of other ones from elsewhere.

40. CCTV plans, tamper proof CCTV, and more detailed conditions

Comment: The CCTV conditions proposed in conditions 42 and 43 for Cheshire East Borough Council are not as extensive or specific as conditions proposed elsewhere and could be improved, so that the operation of CCTV and the rules are more detailed and clearer. **(Please see Oxford City Council's Conditions/Oldham Council's and Cornwall Council's Proposed Policy).**^{xxxvi}

41. Staff Enhanced Criminal Records Bureau Check ((Please see Oxford City Council's Conditions)^{xxxvii}

-All staff employed **or self-employed** to work at any premises licensed as a Sexual Entertainment Venue shall be required to provide an Enhanced Criminal Records Bureau disclosure to the Licensing Authority in which the premises is located.

Reason -To ensure all employed and self-employed staff including lap dancers do not have a criminal record in order to prevent possible future crime. There is a need to add "or self-employed" as many lap dancers are regarded as self-employed.

42. **Noise and Vibration** (Please see Oldham Council's Proposed Policy Conditions).^{xxxviii}

-The Licensee shall ensure that no noise shall emanate from the licensed premises or vibration transmitted through the structure of the licensed premises which gives rise to a nuisance to the occupiers of premises in the vicinity of the licensed premises.

-Without prejudice to the generality of this condition the licensee shall ensure that no form of loudspeaker or sound amplification is sited on or near the exterior of the licensed premises or in or near any foyer, doorway, window or opening to those premises or in or near any foyer, doorway, window or opening to those premises.

- The licensee must ensure that appropriate measures are taken to prevent any nuisance which may be caused by the operation or use of the ventilation or other equipment.

Reason- Premise noise control to prevent noise disturbance to nearby domestic, retail, leisure and office occupiers.

Appendix 4-Committee Procedure

43. There are 20 procedural points in total and the applicant is mentioned in 5 out of 20 but objectors in only 3. In order to give local people a greater say, which is the intention of this change in the law, then a further stage should be introduced in the Committee procedure between points 18 and 19. We suggest as follows:

Objectors *the objectors or their representative will briefly summarise their objections and comment on the representations made and the applicant's summary.*

44. The Objectors are only allowed to present the basis of their objections in point 13, they should however, be allowed greater scope to object and the condition should be more like condition 4 for the applicant. The reason for the change would be to allow local people a greater say. It is suggested that condition 13 is changed as follows:

Objectors *The objectors or their representative will be invited to speak and to present his or her case and the grounds of objection, calling witnesses as appropriate.*

45. The Committee procedure in Appendix 4 should have an end note to make it clear that in the Committee procedure any person can be an objector, as follows:

Note: *under Schedule 3 paragraph 10(15) of the Local Government Miscellaneous Provisions Act 1982: Any person may object to an application for the grant, renewal or transfer of a licence under this Schedule and therefore be an objector.*

46. It would be helpful for the policy itself to state that representatives of an objector in the Committee procedure may include an MP, local Councillor, legal representative or a friend.

References and End Notes

ⁱ See Schedule 3 paragraph 10(15) of the Local Government Miscellaneous Provisions Act 1982:

“Any person objecting to an application for the grant, renewal or transfer of a licence under this Schedule shall give notice in writing of his objection to the appropriate authority, stating in general terms the grounds of the objection, not later than 28 days after the date of the application.”

http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1982/cukpga_19820030_en_13#sch3

ⁱⁱ See Appendix 2 page 11- Fees for Harrogate Borough Council: Grant £8,000, Variation £4,000, Annual Licence Fee £8,000, Transfer Fee £177, Change of Name £177

http://www.harrogate.gov.uk/pdf/062010_SEV%20combined%20appendicies%201%202%203.pdf

Oxford City Council -Sexual Entertainment Venue Licensing - Fees

The fee for a new Sexual Entertainment Venue Licence is £5,500.00

The fee for renewal of a Sexual Entertainment Venue Licence is £5,000.00

The fee to transfer a Sexual Entertainment Venue Licence is £1,100.00

The fee to vary a Sexual Entertainment Venue Licence is £1,100.00

<http://www.oxford.gov.uk/PageRender/decB/SexualEntertainmentVenueLicensingFees.htm>

South Hams District Council: Application fee of £5,600; http://www.southhams.gov.uk/draft_south_hams_-_sex_establishment_licensing_policy.pdf

ⁱⁱⁱ Usually referred to as Sexual Entertainment Venues.

^{iv} See Oldham Council’s Proposed Sexual Entertainment Policy-paragraph 3.5 states that:

The Council has determined that the number of sexual encounter venues relevant for the town centre is zero.

<http://www.oldham.gov.uk/licensing-proposed-sexual-entertainment-venue-policy.pdf>

See Mid Sussex District Council’s Policy on the Licensing of Sex Establishments:

This mentions towns as well as other areas as being relevant localities in paragraphs 2.2 to 2.4 of the draft policy:

<http://www.midsussex.gov.uk/Nimoi/sites/msdcpublish/resources/100526%20full%20report.pdf>

^v For example this is mentioned in paragraph 3.53 of the Home Office guidance.

Haringey Council state as follows on page 4 of their draft policy:

The Council has a duty to promote gender equality, consider crime and disorder and ensure fair and rational determination of applications.

The Authority is compliant with the EU Services regulations 2009.

This policy is:

- *non discriminatory*
- *justified by an overriding reason relating to the public interest.*
- *Proportionate to that public interest objective*
- *Clear and ambiguous*
- *Objective*
- *Made public in advance and*
- *Transparent and accessible.*

All applications must be properly determined as they have an overriding reason relating to the public interest, therefore tacit authorisations further to EU Services Directive will not apply.

^{vi} See Haringey Council’s Draft Sex Establishment Policy:

Haringey Council has listed all of the 19 wards in the Borough and has determined that the appropriate number is nil, as detailed in the following quote:

“3.4. The Council has considered the character of its wards and determined that the appropriate number of sex establishments for each ward is nil. The Council’s vision is to achieve greener, cleaner, sustainable communities and neighbourhoods to enable a good quality of life for all. The Council’s “nil per ward policy” responds to this concern and in addition to the above is based on the following factors which justify this safeguarding step: It will not allow licences to be granted where the appropriate number is exceeded.”

See http://www.haringey.gov.uk/draft_sex_establishment_licensing_policy.pdf see paragraphs 3.2 to 3.4

Draft policy for sex establishments’ consultation between 30 September and 15 December 2010 for Haringey Borough. The Council of Haringey is made up of 57 councillors. Each of the 19 wards that make up the borough has three councillors, elected by residents of that ward every four years. <http://www.haringey.gov.uk/index/council/decision-making.htm>

Oldham Council’s Proposed Sexual Entertainment Venue Policy:

3.5 Relevant Number – Town Centre

While the Council recognise that different parts of the Borough have different characteristics it also recognises that the Town Centre is the main locality where a business offering relevant entertainment may wish to operate.

The Council has determined that the number of sexual encounter venues relevant for the town centre is zero.

Notwithstanding the fact the number of sexual entertainment venues for town centre has been set to zero, the Licensing Authority will still consider applications for that locality. However, the applicant will have to demonstrate to the Licensing Authority why they should depart from that policy.

3.6 Relevant Number – Other Localities

For all other localities within the Borough the Licensing Authority will treat each application on its own merits. However applicants should be aware that there will be a general presumption for refusal where the characteristic of the locality is made up of:

- residential accommodation,
- parks and children's play areas,
- other retail units (and their uses),
- schools,
- religious and communal buildings,
- alcohol or entertainment licensed premises.

<http://www.oldham.gov.uk/licensing-proposed-sexual-entertainment-venue-policy.pdf>

See Mid Sussex District Council's Policy which is based on a Zero policy.

The Council, in determining applications, **will also** consider the following factors:

- a) the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons
- b) the proximity of educational establishments to the premises
- c) the proximity of places of worship to the premises
- d) access routes to and from schools, play areas, nurseries, children's centres or similar premises
- e) the proximity to shopping centres
- f) the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
- g) the potential impact of the licensed activity on crime and disorder and public nuisance
- h) the potential cumulative impact of licensed premises in the area taking into account the days and hours of operation of the activity and the character of the locality where the premises are situated
- i) the nature and concerns of any objections received from residents/establishments objecting to the licence application.
- j) any evidence of complaints about noise and/or disturbance caused by the premises.
- k) current planning permission/planning requirements on the premises
- l) any current planning policy considerations
- m) proximity of other sex establishments
- n) whether there is planned regeneration of the area
- o) any current licensing permissions related to the premises in relation to activities, uses and hours
- p) comments/observations of the Police and Council personnel, including compliance with licensing conditions, relevant history (including noise complaints) together with details of previous convictions/prosecutions pending.
- q) The suitability and fitness of an applicant to hold a licence.

<http://www.midsussex.gov.uk/Nimoi/sites/msdcpub/public/resources/100526%20full%20report.pdf>

See item 34 which passed the Mid Sussex District Council's policy on the licensing of sex establishments commencing on the 1st of September 2010: <http://www.midsussex.gov.uk/Nimoi/sites/msdcpub/public/resources/1007213.pdf>

^{viii} Oldham Council's Proposed Sexual Entertainment Venue Policy:

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- religious and communal buildings,
- alcohol or entertainment licensed premises.

<http://www.oldham.gov.uk/licensing-proposed-sexual-entertainment-venue-policy.pdf>

^{ix} For example Mid Sussex District Council policy which has been adopted states on page 4/13 "The areas are too numerous to list due to the size of the District."

<http://www.midsussex.gov.uk/Nimoi/sites/msdcpublish/resources/100526%20full%20report.pdf>

^x It would be preferable if this approach was combined with a nil per ward policy, but if the neutral policy in paragraph 3.7 was retained, it would be possible to make the policy more robust by providing a similar description for the local areas in Cheshire East where such establishments would be considered unsuitable, listing all the main towns, small towns, rural areas etc, together with the other suggestions in this response to make the policy more robust. See paragraph 2 of the Mid Sussex District Council policy starting from page 3/12.

<http://www.midsussex.gov.uk/Nimoi/sites/msdcpublish/resources/100526%20full%20report.pdf>

^{xi} See report to Cheshire East Council on the 13th of September 2010 on an application for a sex shop renewal:

[http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000271/M00003277/AI00009987/\\$PrivateShopReportcommittee.docA.ps.pdf](http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000271/M00003277/AI00009987/$PrivateShopReportcommittee.docA.ps.pdf)

^{xii} See paragraphs 33 to 35 of the Misbehaving Ltd case of 2004 : <http://www.bailii.org/nie/cases/NIHC/QB/2004/61.html>

^{xiii} Please see paragraphs 33 to 35 of the Misbehaving Ltd case of 2004 : <http://www.bailii.org/nie/cases/NIHC/QB/2004/61.html>

Whilst considering that the weak draft policy for Cheshire West and Chester needs considerable amendment, it does have the correct interpretation of case law as outlined in paragraphs 33 to 35 on relevant locality where it states that:

5.3 It would be inappropriate for the Council to treat the whole borough as "the relevant locality". In accordance with case law, the Council shall decide a locality as a matter of fact to be determined by the particular circumstances of each case and not by drawing boundaries on a map.

http://www.cheshirewestandchester.gov.uk/news_and_events/council_consultations/sex_establishment_consultati-1.aspx

^{xiv} See paragraph 1.3 of the Home Office Guidance on Sexual Entertainment Venues:

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?id=23464>

<http://www.lacors.gov.uk/lacors/upload/24193.pdf>

^{xv} Similar to Oxford City Council:

Applications made for a Sexual Entertainment Venue Licence will not generally be deemed to be appropriate if the premises is near or in locations or areas containing any of the following:

- (i) Historic buildings or tourist attractions
- (ii) Schools, play areas, nurseries, children's centres or similar premises
- (iii) Shopping complexes
- (iv) Residential areas
- (v) Places of Worship

<http://www.oxford.gov.uk/PageRender/decB/SexualEntertainmentVenueLicensing.htm>

and South Hampshire District Council:

....whilst treating each application upon its own merits, the

Council will not licence premises in proximity to:

- (a) a residential area;
- (b) premises, areas or access routes to such premises or areas which are designed for or attract children or families, such as school, play areas, parks,

children's centres, youth clubs, nurseries or leisure facilities, or any other similar establishment;

- (c) a place of public religious worship;
- (d) historic buildings, cultural attractions and tourist attractions;
- (e) educational establishments;
- (f) community facilities and public buildings;
- (g) an area with a history of social difficulties;
- (h) a gateway to an identifiable locality.

http://www.southhams.gov.uk/draft_south_hams_sex_establishment_licensing_policy.pdf

Epsom and Ewell Borough Council:

9. RELEVANT LOCALITY

9.1 When determining an application, the Authority will have regard to the character of the relevant locality, the use of the premises in the vicinity and the layout, character, condition or location of premises.

9.2 The Authority shall have a general policy presumption against the granting of licences which are;

- a) Adjacent to, or in the vicinity of places of worship; or
- b) Adjacent to, or in the vicinity of schools or other educational establishments;
- or c) Adjacent to, or in the vicinity of public buildings or community facilities; or
- d) Adjacent to, or in the vicinity of family residential areas; or
- e) Adjacent to, or in the vicinity of a family leisure area
- f) Adjacent to, or in the vicinity of public buildings or community facilities; or
- g) In an area earmarked for regeneration of a particular kind.

http://www.epsom-ewell.gov.uk/NR/rdonlyres/648DF4F4-47AB-47A9-AA89-583EF1596613/0/SexualEntertainmentPolicy_3_.pdf

See Oldham Council's Proposed Sexual Entertainment Venue Policy:

3.5 Relevant Number – Town Centre

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3.6 Relevant Number – Other Localities

For all other localities within the Borough the Licensing Authority will treat each application on its own merits. However applicants should be aware that there will be a general presumption for refusal where the characteristic of the locality is made up of:

- residential accommodation,
- parks and children's play areas,
- other retail units (and their uses),
- schools,
- religious and communal buildings,
- alcohol or entertainment licensed premises.

<http://www.oldham.gov.uk/licensing-proposed-sexual-entertainment-venue-policy.pdf>

See Mid Sussex District Council's Policy which is based on a Zero tolerance policy:

The Council, in determining applications, **will also** consider the following factors:

- a) the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons
- b) the proximity of educational establishments to the premises
- c) the proximity of places of worship to the premises
- d) access routes to and from schools, play areas, nurseries, children's centres or similar premises
- e) the proximity to shopping centres
- f) the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
- g) the potential impact of the licensed activity on crime and disorder and public nuisance
- h) the potential cumulative impact of licensed premises in the area taking

-
- into account the days and hours of operation of the activity and the character of the locality where the premises are situated
- i) the nature and concerns of any objections received from residents/establishments objecting to the licence application.
 - j) any evidence of complaints about noise and/or disturbance caused by the premises.
 - k) current planning permission/planning requirements on the premises
 - l) any current planning policy considerations
 - m) proximity of other sex establishments
 - n) whether there is planned regeneration of the area
 - o) any current licensing permissions related to the premises in relation to activities, uses and hours
 - p) comments/observations of the Police and Council personnel, including compliance with licensing conditions, relevant history (including noise complaints) together with details of previous convictions/prosecutions pending.
 - q) The suitability and fitness of an applicant to hold a licence.

<http://www.midsussex.gov.uk/Nimoi/sites/msdcpublic/resources/100526%20full%20report.pdf>

^{xvi} See London Borough of Wandsworth Ex parte Darker Enterprises Limited, R v. [1999] EWHC Admin 34 (15th January, 1999)
<http://www.bailii.org/ew/cases/EWHC/Admin/1999/34.html>

^{xvii} See Create a Difference in Macclesfield <http://www.createadifference.co.uk/>

^{xviii} See Schedule 3 paragraph 12 of the 1982 Act.
<http://www.legislation.gov.uk/ukpga/1982/30/schedules>

^{xix} See paragraph 3.1. of the Mid Sussex District Council's Policy which states as follows:

3.1 Making an application

Applications should be made in writing on the Council approved form to the Licensing Officer, Mid Sussex District Council.

The form must be accompanied by the following :

- five sets of floor plans, drawn to scale and showing all means of entry and exit, any parts used in common with any other building and indicating how the premises lie in relation to the street;
- five sets of plans showing the existing and front elevation of the premises depicting all signage;
- five sets of plans (scale 1:500) showing the sex establishment in relation to other premises within 100 metres;
- five sets of plans (scale 1:50) showing the layout of the sex establishment;
- the correct fee as set by the Council's Licensing Committee

Applicants are warned that any person who, in connection with an application for the grant renewal or transfer of a licence, makes a statement which s/he knows to be false in any material respect, or which s/he does not believe to be true, is guilty of an offence and liable to summary conviction to a fine not exceeding £20,000.

Any licence approved by the Council does not constitute any approval under other Acts (eg the Town and Country Planning Act 1990) or Byelaws. The applicant must ensure that all other necessary consents and approvals are obtained prior to operation.

The Council will not determine an application for grant of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

<http://www.midsussex.gov.uk/Nimoi/sites/msdcpbublic/resources/100526%20full%20report.pdf>

^{xx} This is in the application form itself, but it would help to enforce the importance of this measure if included in the policy as well.

^{xxi} See paragraph 3.1 of the Mid Sussex District Council's policy:

<http://www.midsussex.gov.uk/Nimoi/sites/msdcpbublic/resources/100526%20full%20report.pdf>

^{xxii} See Paragraph 3.1 of the Mid Sussex District Council's policy:

Applicants are required to post an A3 notice at the proposed site for 21 days from the date the application is lodged with the Council, setting out the application details. Guidance on these Notices is available from the Licensing Officer. The notice must be posted in a prominent position for the whole of that time and be easily read by passers-by.

<http://www.midsussex.gov.uk/Nimoi/sites/msdcpbublic/resources/100526%20full%20report.pdf>

See the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, regulation 25 for the Licensing Act 2003 on advertising. It suggests that the notice here has to be larger than A4 and makes similar requirements on the font size.

Whilst this is under the LGMP Act 1982 not the Licensing Act 2003, it would seem reasonable to have similar requirements:

<http://www.legislation.gov.uk/ukxi/2005/42/regulation/25/made>

^{xxiii} See the October 2010 section 182 guidance on the Licensing Act 2003 which even within the constraints of this Act says that 8.6 It is expected that "a person involved in business" will be given its widest possible interpretation, including partnerships, and need not be confined to those engaged in trade and commerce. It is also expected that the expression can be held to embrace the functions of charities, churches and medical practices.

<http://www.homeoffice.gov.uk/publications/alcch/guidance-section-182-licensing?view=Binary>

The LGMP Act 1982 is far wider and says:

Schedule 12 paragraph 10(15) of the Local Government Miscellaneous Provisions Act 1982:

"Any person objecting to an application for the grant, renewal or transfer of a licence under this Schedule shall give notice in writing of his objection to the appropriate authority, stating in general terms the grounds of the objection, not later than 28 days after the date of the application."

http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1982/cukpga_19820030_en_13#sch3

^{xxiv} Harrogate Council's draft Policy: Appendix 2

If a cheque is dishonoured by a bank this will result in the revocation of the Sexual Entertainment Venue Licence issued by the Council unless satisfactory arrangements are made for payment of the outstanding fees is made within 5 working days of the initial contact with the Council.

http://www.harrogate.gov.uk/pdf/062010_SEV%20combined%20appendicies%201%202%203.pdf

^{xxv} See Oxford City Council's general condition in Part II rules which apply to all types of sex establishments, therefore applying to sexual entertainment venues which are a new category of sex establishment, which state that:

Times of Opening

5. Except with the previous consent of the Council a Sex Establishment shall not be open to the public before 9 a.m. and shall not be kept open after 6 p.m. unless otherwise permitted.

6. The premises shall not open on Sundays or any Bank Holidays or any public holidays, unless otherwise permitted.

<http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueStandardConditions.pdf>

However, we submit that Sundays and Bank Holidays should be automatically banned and not dependent on Council discretion.

^{xxvi} See Repeat application for a lap dancing venue in Macclesfield :

[http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000271/M00003019/AI00007102/\\$App36AddPages.tifA.ps.pdf](http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000271/M00003019/AI00007102/$App36AddPages.tifA.ps.pdf)

<http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?Cid=271&Mid=3019&Ver=4>

[http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000271/M00003019/AI00007102/\\$NMC14327.docA.ps.pdf](http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000271/M00003019/AI00007102/$NMC14327.docA.ps.pdf)

^{xxvii} See Condition 16 in the Oxford City Council's Conditions in Part V:

<http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueStandardConditions.pdf>

^{xxviii} See Condition 26 in Appendix D for Cornwall Council's Draft Policy which can be downloaded from the link below:

No change from a sex entertainment venue to either a sex cinema or a sex shop (including a mail-order shop), or a sex shop to either a sex cinema or sex entertainment venue, or from a sex cinema to either a sex shop or sex entertainment venue, shall be made without the approval of the Council. This will require consideration of an appropriate application.

<http://www.cornwall.gov.uk/Default.aspx?page=24779>

^{xxix} See Condition 15 in the Oxford City Council's Conditions in Part V:

<http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueStandardConditions.pdf>

^{xxxi} See Oxford City Council's conditions 13,14, 17,18,19,20 and 34 in Part V:

<http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueStandardConditions.pdf>

Condition 14 Oxford City Council's Standard Conditions in Part V:

<http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueStandardConditions.pdf>

Also similar to a condition put forward by the Police for the proposed lap dancing venue at Repent in Macclesfield January 2010: Condition 8-Where performers who are not being collected from the door of the premises by taxi or other transport, will be chaperoned back to their vehicles by escorts provided by the licence holder. This is necessary for the safety of the persons performing in the premises.

^{xxxii} See Conditions 45 to 53 in Appendix D Cornwall Council Draft Policy which can be downloaded from this link:

<http://www.cornwall.gov.uk/Default.aspx?page=24779>

^{xxxiii} See Oldham Council's Proposed Sexual Entertainment Policy Condition 33:

<http://www.oldham.gov.uk/licensing-proposed-sexual-entertainment-venue-policy.pdf>

^{xxxiv} See paragraph 6.3. on page 6:

<http://www.bedfordshire.police.uk/aboutus/strategiesandpublications/licensing/licensing.pdf>

^{xxxv} See Oxford City Council's Conditions 9,6,7 and 8 in Part V:

<http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueStandardConditions.pdf>

^{xxxvi} Oldham Council's Proposed Sexual Entertainment Venue Policy condition 32:

A tamper proof digital CCTV system shall be installed to the satisfaction of a Greater Manchester Police Crime Reduction Officer.

<http://www.oldham.gov.uk/print/licensing-proposed-sexual-entertainment-venue-policy.pdf>

Closed Circuit Television (CCTV) (Oxford City Council's Conditions 25,26,27,28 ,29,30 and 31 in Part V)

25. A CCTV system shall be installed to cover all entrances and exits to the premises, and areas where relevant entertainment will take place. This system must be installed and fully operational before the premises opens for the licensable activity applied for. All cameras shall continually record whilst the premises are open to the public and video recordings shall be kept available for a minimum of 28 days with date and time stamping.
26. At the time of installation or upgrading of any CCTV system it shall comply with the current and relevant Thames Valley Police guidelines for Standard Minimum Closed Circuit Television Requirements (Issue 1, July 2004). To obtain a clear head and shoulders image of every person entering the premises on the CCTV system, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.
27. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of one calendar month. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
28. A plan shall be submitted illustrating the position of all cameras and shall be with the approval of Thames Valley Police.
29. A member of staff who is fully trained in the use of the system shall be on duty at all times when the premises is open till the premises is clear of customers, cleared of staff and closed.
30. The premises will provide any footage upon request by Thames Valley Police or the Licensing Authority within 24 hrs of the request.
31. The recordings for the preceding two days shall be made available immediately upon request, and recordings outside this period shall be made available within 24 hours.

<http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueStandardConditions.pdf>

See Cornwall Council in draft policy:

11.3 Operation of CCTV to the Council's satisfaction

CCTV REQUIREMENT – MINIMUM SPECIFICATION

1. A minimum of one high resolution (minimum of 450tvl) colour day/night camera, complete with an auto iris vari-focal lens, fitted in a heated weatherproof external housing, for external coverage of entrances.
2. A minimum of one high-resolution colour camera complete with an auto iris vari-focal lens shall be fitted to each public entrance/exit. Door entrance cameras must be capable of providing good quality head and shoulder images of persons entering/leaving the premises, in order to provide assistance with identification of patrons, if required.
3. There must be sufficient cameras located within the premises to cover all public areas, that are capable of providing good quality head and shoulder images of persons within the premises (in order to provide assistance

with identification of patrons, if required). These cameras must be able to operate within the normal operational lighting levels of the premises.

4. Lighting in the foyer and outside must be of sufficient brightness to enable camera images to be recorded to the quality stated at condition 2 above.
5. In addition to the control equipment it is recommended that an additional high-resolution 15" monitor must be sited in or near the bar area or foyer entrance. This will give customers and staff visible reassurance on the installation and quality images provided.
6. All equipment shall have constant time/date generation. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time. If the system is not capable of achieving this requirement the Licence holder or a nominated person must ensure that a manual facility is available to carry out this update as an alternative.

Recording/image capture system

Although it will be acceptable for images to be recorded using conventional time lapse analogue video recorders, it is recommended that if a digital multiplex recorder is installed it must meet the following requirements:

1. The unit shall have an on board CD/DVD writer/re-writer, to enable evidence recovery.
2. If a CD/DVD is used to transfer the digital CCTV images from a digital hard drive CCTV system then a write once CD-R/DVD-R medium must be used. The disc containing the recorded images needs to be able to be played back on a modern Windows system such as Windows 2000 Professional, Windows XP or Windows 7. The Licence holder or a nominated person must ensure that their data transfer system is capable of being upgraded to take into account development of Windows operating systems.
3. The playback software needs to be written to the CD-R/DVD-R at the same time of writing the CCTV images. This software must be able to play back the images at full screen resolution with forward and reverse replay, including pause and slow motion.
4. There must be a "SAVE AS" feature so that a still image can be saved and exported to an external system in either BITMAP or JPEG format.
5. The system must be capable of downloading/copying all the stored CCTV footage to another medium in its native format, i.e. an external hard driver that can be played back via a windows based computer.
6. There shall be sufficient members of trained staff available during the hours of operation of the premises to be able to download evidence at the request of the Police or an Authorised Officer of the Council.
7. CCTV warning signs shall be fitted in public areas of the premises.
8. The installing company must provide a letter certifying compliance with this specification, a copy of which must be provided to the Licensing Authority and Devon & Cornwall Police.
9. The CCTV system must be maintained and checked every twelve months to ensure the system is operating correctly. The installing/maintenance company must produce a letter confirming that the system is fully functional and meets the specified requirements.
10. Recordings **must** be kept for a minimum of 31 days. This period may be reduced for premises that have a large number of cameras, long recording time with high resolution recordings that will make it impossible for the premises to adhere to the 31 days. The Council's Licensing Team and the Police Licensing section must be consulted in these circumstances for authorisation of the reduction of the retention period.
11. Recordings of incidents at the premises must be made secure for inspection by the Police.

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12. An Authorised Officer may, at any time, request a recording. Failure to comply with this request will be regarded as a serious breach of this condition.
 13. The Licence holder or a nominated person must be able to demonstrate that they operate a recording management system that prevents recordings being tampered with, stolen, or misplaced. This should include a back-up system to ensure there is no failure to record. Recording equipment shall be housed in a secure room/cabinet where access and operation is strictly limited to authorised persons.
 14. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.
 15. In the event of a system malfunction, the Licence holder or a nominated person must immediately notify the Licensing Authority **Tel:** _____ and Police Licensing Department **Tel:** _____. Details of such malfunction must be recorded in the premises incident book. Arrangements for its repair must be made without delay. The Licensing Authority and Police Licensing must be notified when the operation of the system is restored.

Any requirements contained within this section would not override any specific condition attached to an authorisation under the Licensing Act 2003.

In Appendix D in conditions for Cornwall Council draft policy:

18. In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, then the Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
19. CCTV recordings will be made available for viewing by authorised officers of the licensing authority or the police. Copies of such recordings must be provided upon request.
20. CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. The CCTV system must be monitored by a dedicated member of staff or security personnel at all times that the premises are in operation.

–Draft policy for Cornwall Council can be downloaded from a link at the bottom of this page.

<http://www.cornwall.gov.uk/Default.aspx?page=24779%20>

^{xxxvii} See Oxford City Council's Conditions- Condition 5 in Part V:

<http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueStandardConditions.pdf>

^{xxxviii} See Oldham Council's Proposed Sexual Entertainment Policy Condition 27:

<http://www.oldham.gov.uk/print/licensing-proposed-sexual-entertainment-venue-policy.pdf>