

**Committee:** Licensing Committee  
**Date:** Monday 21 October 2013  
**Time:** 5.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, Oxfordshire  
OX15 4AA

### Membership

<b>Councillor Fred Blackwell (Chairman)</b>	<b>Councillor Diana Edwards (Vice-Chairman)</b>
<b>Councillor Colin Clarke</b>	<b>Councillor Michael Gibbard</b>
<b>Councillor Tony Ilott</b>	<b>Councillor Ray Jelf</b>
<b>Councillor Kieron Mallon</b>	<b>Councillor P A O'Sullivan</b>
<b>Councillor G A Reynolds</b>	<b>Councillor Alaric Rose</b>
<b>Councillor Gordon Ross</b>	<b>Councillor Douglas Webb</b>

## AGENDA

**1. Apologies for Absence and Notification of Substitute Members**

**2. Declarations of Interest**

Members are asked to declare any interests and the nature of that interest which they may have in any of the items under consideration at this meeting.

**3. Petitions and Requests to Address the Meeting**

The Chairman to report on any requests to submit petitions or to address the meeting.

**4. Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. **Minutes** (Pages 1 - 4)

To confirm as a correct record the Minutes of the meetings of the Committee held on 3 April 2013 and 15 May 2013.

6. **Sex Entertainment Licensing Policy and Procedure** (Pages 5 - 54)

Report of Head of Community Services

**Summary**

The report outlines the changes made in Section 27 of the Policing and Crime Act 2009 amending Schedule 3 of the Local Government (Miscellaneous Provisions) Act, 1982 which enable local authorities to be able to determine applications for sex establishment venues (SEV's) and seek approval for the Council's policy in dealing with such matters.

**Recommendations**

The meeting is recommended to:

- 1.1 Agree that the proposed policy setting out the Councils approach to governing the operation of Sexual Establishment Venues as set out at Appendix 1 be adhered to when determining all applications for such venues.
- 1.2 Agree that the proposed conditions within the attached policy governing the operation of Sexual Entertainment Venues be approved and attached to all licences issued by the Council.
- 1.3 Agree that the proposed amendments as a result of the consultation responses as attached at Appendix 5 be incorporated into the final policy.
- 1.4 Note that the finalised policy will be published on 6 January 2014.
- 1.5 Authorise the Head of Community Safety in consultation with the Chairman of the Licensing Committee, to set and make any minor alterations to the setting of fees in relation to the processing of applications for sexual entertainment venues.

7. **Licensing Department Updates** (Pages 55 - 58)

Report of Head of Community Services

**Summary**

The report advises the Licensing Committee of current and future developments within the Licensing Department.

**Recommendation**

The meeting is recommended:

- 1.1 To note the report.

**Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.**

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01295 221601 / 01327 322365 prior to the start of the meeting.

### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

### **Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates**

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

### **Evacuation Procedure**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

### **Access to Meetings**

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

### **Mobile Phones**

Please ensure that any device is switched to silent operation or switched off.

### **Queries Regarding this Agenda**

Please contact Louise Aston / Dave Parry, Democratic and Elections  
[louise.aston@cherwellandsouthnorthants.gov.uk](mailto:louise.aston@cherwellandsouthnorthants.gov.uk), 01295 221601 /  
[dave.parry@cherwellandsouthnorthants.gov.uk](mailto:dave.parry@cherwellandsouthnorthants.gov.uk), 01327 322365

**Sue Smith**  
**Chief Executive**

Published on Friday 11 October 2013

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# Agenda Item 5

## Cherwell District Council

### Licensing Committee

Minutes of a meeting of the Licensing Committee held at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA, on 3 April 2013 at 5.00 pm

Present: Councillor Fred Blackwell (Chairman)

Councillor Michael Gibbard  
Councillor Timothy Hallchurch MBE  
Councillor Tony Ilott  
Councillor P A O'Sullivan  
Councillor G A Reynolds  
Councillor Alaric Rose  
Councillor Gordon Ross  
Councillor Rose Stratford  
Councillor Douglas Webb

Substitute Members: Councillor Lawrie Stratford

Also Present:

Apologies for absence: Councillor Mrs Diana Edwards  
Councillor Kieron Mallon

Officers: Claire Bold, Licensing Team Leader  
Dave Parry, Interim Democratic and Elections Officer

#### 24 **Declarations of Interest**

There were no declarations of interest.

#### 25 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

#### 26 **Urgent Business**

There was no urgent business.

#### 27 **Minutes**

The Minutes of the meeting of the Committee held on 17 December 2012 were agreed as a correct record and signed by the Chairman.

28 **Head of Service Delegations: Taxi Licensing**

The Committee considered a report advising on the consideration given by the Head of Public Protection and Development Management when exercising his delegated powers in determining applications for exceptions to Hackney Carriage and Private Hire Driver Licences.

The Committee noted that the new guidelines had been created in response to the publication of recent case law and gave the Head of Service a structured format to follow when considering making exceptions to current policy.

**Resolved**

1. That the consideration given by the Head of Public Protection and Development Management when exercising his delegated powers in determining applications for exception to Policy as detailed in the report be noted and endorsed.

The meeting ended at 5.14 pm

Chairman:

Date:

## **Cherwell District Council**

### **Licensing Committee**

Minutes of a meeting of the Licensing Committee held at Bodicote House,  
Bodicote, Banbury, Oxfordshire OX15 4AA, on 15 May 2013 at 7.47 pm

Present: Councillor Fred Blackwell (Chairman)  
Councillor Diana Edwards (Vice-Chairman)

Councillor Michael Gibbard  
Councillor Timothy Hallchurch MBE  
Councillor Tony Ilott  
Councillor Kieron Mallon  
Councillor P A O'Sullivan  
Councillor G A Reynolds  
Councillor Alaric Rose  
Councillor Gordon Ross  
Councillor Rose Stratford  
Councillor Douglas Webb

#### **1 Appointment of Chairman**

##### **Resolved**

That Councillor Fred Blackwell be appointed Chairman of the Licensing Committee for the municipal year 2013/14.

#### **2 Appointment of Vice-Chairman**

##### **Resolved**

That Councillor Diana Edwards be appointed Vice-Chairman of the Licensing Committee for the municipal year 2013/14.

The meeting ended at 7.48 pm

Chairman:

Date:

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## Cherwell District Council

### Licensing Committee

21 October 2013

#### Sex Entertainment Licensing Policy & Procedures

#### Report of Head of Community Services

This report is public

#### Purpose of report

The purpose of this report is to outline the changes made in Section 27 of the Policing and Crime Act 2009 amending Schedule 3 of the Local Government (Miscellaneous Provisions) Act, 1982 which enable local authorities to be able to determine applications for sex establishment venues (SEV's) and seek approval for the Council's policy in dealing with such matters

#### 1.0 Recommendations

The meeting is recommended to:

- 1.1 Agree that the proposed policy setting out the Councils approach to governing the operation of Sexual Establishment Venues as set out at Appendix 1 be adhered to when determining all applications for such venues
- 1.2 Agree that the proposed conditions within the attached policy governing the operation of Sexual Entertainment Venues be approved and attached to all licences issued by the Council.
- 1.3 Agree that the proposed amendments as a result of the consultation responses as attached at Appendix 5 be incorporated into the final policy
- 1.4 Note that the finalised policy be published on 6 January 2014
- 1.5 Authorise the Head of Community Services in consultation with the Chairman of the Licensing Committee, to set and make any minor alterations to the setting of fees in relation to the processing of applications for sexual entertainment venues

#### 2.0 Introduction

- 2.1 The Policing and Crime Act 2009 introduces amendments to Section 2, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 permitting local authorities to be able to determine applications for sexual entertainment venues

- 2.2 In March 2011, a request was put before the Licensing Committee to adopt the relevant schedules of the Act and for a policy to be formulated to govern these activities. These requests were approved and a copy of the minutes of this meeting is attached at Appendix 2.
- 2.3 A policy to govern SEV's was planned to be in place by 2012. Unfortunately, due to changes in personnel within the Licensing Department and other legislative requirements, it has not been able to formulate and consult upon a policy until now.

### **3.0 Report Details**

- 3.1 Prior to 1982 there was no control over the operation of sex establishments. Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act (LGMPA) 1982 enabled local authorities the power to licence sex establishments, defined in this particular Act as sex shops and sex cinemas. The Council adopted these provisions on 2 June 1983
- 3.2 The Local Government (Miscellaneous provisions) Act 1982 gave local authorities the power to licence sex establishments, defined in this particular Act as sex shops and sex cinemas.
- 3.3 Originally a separate provision of the 1982 Act gave local authorities powers to regulate adult entertainment by means of a Public Entertainment Licence. The introduction of the Licensing Act 2003 abolished Public Entertainment Licences; instead any premise engaged in any one of the licensable activities listed in the Licensing Act 2003 had to apply to the local authority for a Premise Licence. This was not a like for like replacement, however, and had the effect of leaving sexual entertainment unregulated by the local authority.
- 3.4 Cherwell District Council currently has 2 premises that would require licensing under the new provisions. There are no current licensed sex shops in the district.
- 3.5 There is no statutory requirement on a local authority to have a policy on SEV licensing, but it is best practice to adopt a policy which sets out its approach for the benefit of operators, guides and reassures the public and other public authorities and ensures transparency and consistency.
- 3.6 Currently, there are no fees set for applications in relation to sexual entertainment venues as this type of application has not previously existed. The Policing and Crime Act 2009 allows local authorities to charge a reasonable and proportionate fee. Therefore, it is proposed that the fees will be set at the same level as sex shops which are currently £3,000.
- 3.7 The full draft policy is attached to this report at Appendix 1.
- 3.8 Consultation upon this policy took place from 12 August 2013 to 16 September 2013, inclusively. The consultation was advertised via press notices in local papers and upon the Council's consultation portal. In addition, responsible authorities and stakeholders were written to advising them of the consultation.
- 3.9 During the consultation, two responses were received from local residents. These responses are summarised at Appendix 5 along with the relevant amendments made as a result of the responses.
- 3.10 No other responses were received during the consultation period.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 The Head of Community Services has a duty of care to the public and so any determination will always be made in the interest of public safety as well as service provision to the public
- 4.2 The SEV policy will allow the Licensing Authority to carry out its functions in a transparent approach with clear guidance to the Authority, Applicants, local residents and businesses alike.
- 4.3 Each application must be considered on its own merits

## **5.0 Consultation**

Consultation was carried out in accordance with the requirements of the Act as detailed at paragraph 3.8. A full list of all consultees is attached at Appendix 4 and a summary of responses is attached at Appendix 5.

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following options have been identified. The approach in the recommendations believed to be the best way forward.

Option 1: To approve all of the options set out in the recommendations

Option 2: To approve all of the options set out in the recommendations with amendments

Option 3: To disregard the policy and allow the activities to remain unregulated

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 The recommended fees would enable the Licensing Department to fulfil their function as the Licensing Authority as the costs of issuing and enforcing the new licensing arrangements can be met from the proposed budget.

Comments checked by:

Joanna Kaye, Service Accountant, 01295 221545  
joanna.kaye@cherwellandsouthnorthants.gov.uk

### **Legal Implications**

- 7.2 There is no statutory requirement to implement this policy. However the implication of not having such a policy in place would be to permit unregulated activities to take place within the district with minimal power for the Licensing Authority to take any enforcement action.

Comments checked by Paul Manning, Solicitor, 01295 221691  
paul.manning@cherwell-dc.gov.uk

## Wards Affected

All

## Links to Corporate Plan and Policy Framework

As detailed in the current Service Plan

## Lead Councillor

None

## Document Information

Appendix No	Title
1	Draft Sex Entertainment Licensing Policy and procedures
2	Copy of minutes from Licensing Committee, March 2011
3	Copy of consultation letter
4	List of Responsible Authorities and Stakeholders consulted
5	Summary of consultation responses and proposed amendments
Background Papers	
None	
Report Author	Claire Bold, Licensing Team Leader
Contact Information	01295 752741 claire.bold@cherwell-dc.gov.uk

# **Cherwell District Council**

## **Sex Establishment Licensing**

### **Policy & Procedures**

Draft – August 2013

## **1. INTRODUCTION**

- 1.1 Cherwell District Council in its capacity as Licensing Authority is responsible for dealing with all licensing applications received by the council, investigating complaints, and enforcing licensing conditions on behalf of the council in relation to 'sex establishments'
- 1.2 This Policy has been drafted as a result of provisions that allow Cherwell District Council to regulate sex establishments, and the Licensing Authority is responsible for developing and implementing the Policy.
- 1.3 The Council has adopted section 2 and schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) (the 1982 Act) in order to license sex shops, sex cinemas and other sexual entertainment venues (SEVs) in the district.
- 1.4 The Council will be referred to as the Licensing Authority throughout this document
- 1.5 A sexual entertainment venue is a premises that offers relevant entertainment, more commonly described in the following ways:
  - Lap dancing
  - Pole dancing
  - Table dancing
  - Strip shows
  - Peep shows
  - Live sex shows

Premises that offer relevant entertainment as described above, along with sex shops and sex cinemas are collectively known as 'sex establishments'.

- 1.6 The provisions relating to these establishments came into force on 1 March 2011.
- 1.7 The 1982 Act and the 2009 Act can be viewed at [www.opsi.gov.uk](http://www.opsi.gov.uk)

## **2 PURPOSE AND AIM OF THE POLICY**

- 2.1 This Policy is intended to set out clear and concise guidance, procedure and principles for the benefit of the Licensing Authority, the community, applicants and other relevant organisations.
- 2.2 The Policy also contains standard conditions which will be applied to the different types of sex establishment which forms part of any licence granted.

### **3 SCOPE**

- 3.1 This Policy relates to any premises wishing to operate as a sex shop, sex cinema or sexual entertainment venue in the district of Cherwell.
- 3.2 Not all premises will automatically require a licence. This Policy aims to advise when a licence is required and where exemptions may be present with the legislation.
- 3.3 Notwithstanding matters contained within this Policy, consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for sex establishment licences.
- 3.4 When considering applications for a sexual entertainment venue licence in respect of premises that have previously operated without the requirement for a licence prior to the adoption of this legislation; the Licensing Authority must also have regard to the Home Office guidance issued in March 2010 entitled 'Sexual Entertainment Venues – Guidance for England and Wales' and any updates that may be made to this guidance since its first issue as well as its own policy.

### **4 POLICY AND PROCEDURES STATEMENT**

- 4.1 This Policy became effective on **(INSERT DATE)**.
- 4.2 The Council does not take a moral stance through the adoption of this Policy. We recognise that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a Licensing Authority to regulate such premises in accordance with the law.

### **5 TYPES OF SEX ESTABLISHMENT**

- 5.1 There are 3 types of sex establishments; Sex Shops, Sex Cinemas and Sexual Entertainment Venues. The definitions of these types of venues and other terms used within this Policy are set out in Appendix A.
- 5.2 Not all of these premises automatically require a licence. This is due to certain provisions and exceptions within the legislation. The exceptions are defined in section 6 of this policy.

### **6 SEXUAL ENTERTAINMENT VENUES – EXCEPTIONS**

- 6.1 Schedule 3, Paragraph 2A (3) of the 1982 Act defines those premises that are not Sexual Entertainment Venues. These are:
- Sex Shops and Sex Cinemas (which are separately defined in Schedule 3 to the 1982 Act);
  - Premises that provide relevant entertainment on an infrequent basis. These are



defined as premises where:

- i. no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
  - ii. no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
  - iii. no such occasion has lasted longer than 24 hours.
- 6.2
- Other premises or types of performances or displays exempted by an order of the Secretary of State;
  - Premises which:
    - i. provide relevant entertainment on an infrequent basis or
    - ii. provide any form of adult entertainment which falls outside the definition of relevant entertainment will continue to be regulated under the Licensing Act 2003, insofar as they are providing regulated entertainment under that Act.
    - iii. premises holding a sexual entertainment venue licence will not require a premises licence under the Licensing Act 2003 Act unless the premises is carrying on other licensable activities e.g. the sale of alcohol or the provision of regulated entertainment. Applicants are referred to the Council's Licensing Policy for information on premises licences.
    - iv. live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the 2003 Act.
- 6.3 The Licensing Authority is mindful of possible concerns that the local community may have in regard to applications for sex establishments. This policy will guide the Council when considering applications for licences, in balancing the conflicting needs of commercial interests, patrons, employees, residents and local communities.

## **7 WAIVERS**

- 7.1 Applications can be made to waive the requirement for a sex establishment licence.
- 7.2 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of sex shops and sex cinemas, except in extreme circumstances considered by the Licensing Committee (for example, to allow a temporary re-location of a business following damage to a licensed premises).
- 7.3 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of sexual entertainment venues, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24

hours.

## 8 CONDITIONS

- 8.1 The 1982 Act allows the Licensing Authority to attach conditions to a licence.
- 8.2 This Policy provides for a set of standard conditions to be attached to each licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied. They can be found at Appendices B, C and D and E. The Licensing Authority reserves the power to alter, modify or dispense with these conditions as it sees fit at any time.
- 8.3 Further conditions may be attached to individual licences where the authority deems it necessary. The standard conditions are also applicable to sex establishments, sex cinemas, sex shops and premises involved with the sale and/or supply of sex articles.
- 8.4 The Licensing Authority will seek to avoid duplicating licence conditions where a premise holds licences under both the Licensing Act 2003 and the 1982 Act.
- 8.5 The Licensing Authority will endeavour to avoid imposing conditions on either licence that are contradictory to one another.

## 9. APPLICATION PROCESS

- 9.1 All applications should be submitted to The Licensing Team, Cherwell District Council, Bodicote House, Whitepost Lane, Bodicote, Banbury, OXON, OX15 4AA.
- 9.2 Applications may also be made on line at [www.cherwell-dc.gov.uk](http://www.cherwell-dc.gov.uk)
- 9.3 Applicants for a licence must complete the application form and declaration of convictions form, and submitted together with:
- The correct fee (£3000)
  - A location plan
  - Detailed plans of the premises in a scale of 1:100 (unless a different scale is agreed with the Licensing Authority in advance). The plans must contain the following information:
    - i. the location of the extent of the boundary of the building, if relevant, and any external and internal walls which comprise the premises, or in which the premises is comprised
    - ii. the location of points of access to and egress from the premises
    - iii. if different, the location of escape routes from the premises
    - iv. fixed structures (including furniture) or similar objects temporarily in a fixed

location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment

- v. private booths and dressing rooms
- vi. in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor
- vii. in a case where the premises includes any steps, stairs, elevators or lifts, the location of those steps, stairs, elevators or lifts

9.4 A notice **MUST** be displayed at the proposed site for 21 days from the date the application is lodged with the Licensing Authority. The notice (which must be at least A4 size and pink in colour) must set out the application details. It must be displayed in a prominent position for the entire 21 days and must be easily readable by passers by.

9.5 A public notice **MUST** be placed in a local newspaper giving details of the application. The newspaper notice should appear in the publication within 7 days of the application being lodged.

9.6 The applicant is required to send a copy of the application to The Licensing Officer at Thames Valley Police within 7 days of it being lodged with the Licensing Authority.

9.7 The Licensing Authority will consult with:

- Thames Valley Police
- Oxfordshire Fire & Rescue Service
- Cherwell District Council (Planning & Development Control, Anti Social Behaviour and Public Protection)
- Child Protection Officers
- Local Ward Councillor(s)
- Parish / Town Council
- Any other persons/organisations deemed appropriate by the Council

9.8 The consultation will last for 21 days. The application will be determined depending on the outcome of the consultation. If a hearing is necessitated, this will take place with 28 days of the end of the consultation period.

## **10. DETERMINATION OF APPLICATION**

10.1 A licence cannot be granted to:

- a person under 18;

- a person who has held a licence but has had it revoked within 12 months preceding the date of the application;
- to a person, other than a body corporate, who is not resident in a European Economic Area State or was not so resident throughout the period of six months immediately preceding the date when the application was made;
- to a body corporate which is not incorporated in an EEA State; or
- a person who has within the last 12 months preceding the date of the application been refused a licence in respect of the same premises.

10.2 **Please note: There is no right of appeal against refusal on these grounds.**

10.3 An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified above does not have a right to appeal unless the applicant seeks to show that the ground did not apply to him.

10.4 If no objections are received and there are no other statutory grounds for refusal, including that the application does not exceed any permitted numbers, the application will be granted by way of delegated authority.

10.5 When considering an application the Licensing Authority will have regard to the following:

- The proximity of residential premises, including any sheltered housing and accommodation of vulnerable people;
- The proximity of educational establishments;
- The proximity of places of worship;
- Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises
- The proximity of shopping centres
- 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)
- Any current planning considerations
- Whether there is a planned regeneration of the area
- The proximity of other sex establishments
- The potential impact of the licensed activity on crime and disorder and public nuisance;
- The nature and concerns of any objections received from residents and/or

establishments objecting to the licence application;

- Any evidence of complaints about noise and/or disturbance caused by the premises;
- Current planning permission/planning requirements on the premises;
- Any current licensing permission related to the premises in relation to activities, uses and hours.

10.6 The Licensing Authority has not set a limit on the number of sex establishments that it thinks is appropriate for any relevant locality. The Council will determine each application on its merits on a case-by-case basis.

10.7 The Licensing Authority may refuse an application for the grant or renewal of a licence on one or more of the grounds below:

- The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- 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;
- The number of sex establishments, or of sex establishments of a particular kind in the authority at the time the application is determined, is equal to or exceeds the number which the authority consider is appropriate for that locality;
- That the grant or renewal of the licence would be inappropriate, having regard to:
  - the character of the relevant locality (i.e. the locality in which the premises are situated); or
  - the use to which any premises in the vicinity are put; or
  - the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

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

10.9 A person whose application for the grant or renewal of a licence is refused because of the number of establishments or the appropriateness of a particular establishment does not have the right to appeal the decision (see Section 17 of this document). In such cases the applicant can only challenge the refusal by way of judicial review.

10.10 When assessing the suitability of an applicant the licensing authority will consider the grounds below:

- the honesty of the applicant
- the experience of the applicant in running the type of sex establishment in question

- the understanding the applicant has of the general conditions
- the management structure which the applicant is proposing and its ability to deliver compliance with the operating conditions through:
  - managerial competence
  - presence
  - credible management structure
  - enforcement of rules internally
  - a viable business plan
  - policies for welfare of performers
- the reliability that can be placed upon the applicant to act in the best interests of the performers e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored
- the ability and reliability of the applicant to protect the public e.g. transparent charging, freedom from solicitation

10.11 **The above grounds are not intended to be exhaustive.**

10.12 The term 'relevant locality' is to be determined by the Licensing Authority on a case by case basis including, but not exclusively, having reference to what the community would view as the locality.

10.13 When issuing a sex establishment licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued.

10.14 In addition to this, the Licensing Authority has the power to make standard conditions applicable to all licences for sex establishments.

10.15 It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.00.

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

10.17 All standard conditions will be reviewed as part of a Policy review. Such a review will take place every three to five years.

## **11 DURATION OF LICENCE**

11.1 Sex establishment licences will normally be granted for one year, though they may be issued for a shorter period if deemed appropriate.

## **12 RENEWAL OF LICENCE**

- 12.1 An application to renew the licence must be made in the appropriate form prior to the expiry of the existing licence.
- 12.2 Where an application has been made for its renewal, before the expiry of a current licence, that licence shall remain in force until such time as the new licence is issued or some other determination made by the Council.

## **13 VARIATION OF LICENCE**

- 13.1 The application form, together with relevant plans and the appropriate fee should be forwarded to the Licensing team. Applications for variation are required to comply with site and newspaper notice requirements.
- 13.2 Applications for variations must relate only to proposed changes in respect of the actual premises and the hours of operation currently covered by the licence.
- 13.3 All variation applications will be consulted upon as if they were new applications, and the procedure followed will be the same as that described in paras. 9 – 11 above. Applicants must not operate any revised or varied arrangements until the application has been determined and the licence has been issued.

## **14 TRANSFER OF LICENCE**

- 14.1 Where, before the date of expiry of a licence, an application has been made to transfer, it shall be deemed in force with any necessary modifications until the withdrawal of the application or its determination. This will apply even if the expiry date has passed or the person to whom the licence is to be transferred is carrying on the business of the sex establishment

## **15 MAKING REPRESENTATIONS**

- 15.1 There is no vicinity test applied to those wishing to make representations whether against or in support of a sex establishment licence application. The police are a statutory consultee.
- 15.2 Where relevant representations are received by the Council from a person or body opposing an application, the application shall be heard by a Licensing Sub-Committee consisting of three members drawn from the Licensing Committee. They will have regard to this Policy and all relevant legislation when making its decision
- 15.3 Representations must be relevant to the application and must not be frivolous or vexatious. They should relate to the statutory grounds for refusal as set out in para. 12 of Schedule 3 of the 1982 Act. They must not relate to moral grounds as these are outside the scope of the 1982 Act.

15.4 Decisions as to whether objections are frivolous or vexatious will be made objectively by officers and not on the basis of any political judgement.

15.5 Objections should be received within 28 days of the application and:

- Be made in writing
- Show the name and address of the person/organisation making the representation
- Indicate the premises to which the representation relates
- Clearly set out the reasons for making the representations

## **16 THE HEARING**

16.1 The Licensing Authority, where relevant representations are received, shall hold a hearing before:

- refusing to grant a licence
- refusing to renew a licence
- refusing to transfer a licence
- refusing to vary a licence

16.2 The applicant and any persons who have made representations and who wish to attend the hearing will have the opportunity to address the Sub-Committee before the application is determined.

16.3 In preparation for the hearing, all parties will be advised of the date, time and venue and will receive a copy of the Licensing Officer's report prior to the hearing. The report will contain a summary of the application, objections and any other relevant information.

16.4 Whilst the Act does not stipulate a timescale for hearing applications where objections have been submitted and accepted, Cherwell District Council aims to determine an application within 28 days from the last day of the consultation period. However, the Licensing Authority hereby overrides the so called 'tacit authorisation' effect of the Provision of Services Regulations 2009.

16.5 In other words, an application will not be deemed to be granted just because it has not been determined within 28 days from the last day of advertising. If the Licensing Authority is satisfied that there are good policy reasons for doing so, namely, for reasons beyond the Licensing Authority's control, and/or others affected by the outcome of an application, it may not always be reasonable or even practical to rigidly apply a standard timescale fixed in advance. In the interests of fairness and justice, it is essential that all applications are carefully considered and all the relevant issues are properly weighed in the balance before the outcome is determined.



- 16.6 When considering an application the Licensing Authority will have regard to:
- all written representations made by responsible authorities or members of the public
  - all representations made in person at the hearing
  - any rights the applicant may have under the European Convention on Human Rights, specifically Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of
  - section 17 of the Crime and Disorder Act 1998 (as amended)
  - the Equality Act 2010 where relevant
- 16.7 The hearing will concentrate on matters which are relevant to one or more of the grounds upon which a licence may be refused under Schedule 3 of the Act.
- 16.8 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing. Accordingly a decision in writing will be issued as soon as is reasonably practicable after a decision is made.

## **17 APPEALS**

- 17.1 The 1982 Act limits who can appeal to the Magistrates' Court and the matters about which they can appeal. An appeal must be lodged before the expiration of the period of 21 days following receipt of notification of the outcome of the application. The Act affords rights of appeal to the industry only. The decisions against which a right of appeal lies are refusals of grants, renewals, transfers or variations, the imposition of conditions and also revocations.
- 17.2 Please note that there is no right of appeal against the Licensing Authority's decision if the application was refused on the grounds that:
- that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the Licensing Authority consider is appropriate for that locality; or
  - the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.
- 17.3 The initial appeal will be determined in the Magistrates' Court. If you do not agree with the decision made by the magistrates, you can appeal to the Crown Court. The decision made by the Crown Court will be final.

- 17.4 The Council must comply with a decision made by the court.
- 17.5 Where an application is lodged against refusal to renew, or for revocation of a licence, the licence remains in force until such time as the appeal is determined
- 17.6 Where an appeal is lodged against conditions applied to a licence, the conditions are deemed not to come into force until the determination or abandonment of the appeal.

## **18 EXCHANGE OF INFORMATION**

- 18.1 The Licensing Authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its statutory objective of reducing crime in the area.
- 18.2 Details of applications and objections which are referred to a Licensing Sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.
- 18.3 In accordance with the 1982 Act, the names and addresses of objectors will not be disclosed to applicants or published in public reports without the consent of the objector(s). Such details will be made available to Members on the Licensing Sub-Committee.

## **19 EQUALITY ACT 2010**

- 19.1 The Licensing Authority recognises that the Equality Act 2010 places an obligation on all public authorities to have regard to the need to tackle discrimination and inequality and eliminate unlawful discrimination. This Act incorporates several separate pieces of legislation, including race, disability and equalities, and simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it.

## **20 HUMAN RIGHTS ACT 1998**

- 20.1 The Council will implement the Human Rights Act 1998 in a consistent manner.

## **21 COMPLIANCE AND ENFORCEMENT**

- 21.1 It is acknowledged that sex establishments are not generally a source of crime or disorder. The Licensing Authority will carry out twice yearly inspections of premises, unless there are exceptional circumstances or intelligence requires otherwise. Enforcement action will be taken where necessary. The Licensing Authority's approach to enforcement is set out in the enforcement policies which are available on our website [www.cherwell-dc.gov.uk](http://www.cherwell-dc.gov.uk)

## **22 FEES**

- 22.1 Fees are reviewed annually. Details are available from the Licensing Team or from the council's website [www.cherwell-dc.gov.uk](http://www.cherwell-dc.gov.uk)

## **23 EVALUATION AND REVIEW**

- 23.1 This Policy will be reviewed on a 3-5 yearly basis. Any proposed amendments to the Policy will be fully consulted upon prior to re-adoption by the Council.
- 23.2 The Head of Public Protection and Development Management in conjunction with the Chair of the Licensing Committee reserves the right to amend the policy in accordance with legislative changes in between policy reviews

## **Appendix A**

### **TYPES OF SEX ESTABLISHMENT**

#### **Sex Shop**

The legislation defines a Sex Shop as:

- Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles; or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity; or acts of force or restraint which are associated with sexual activity.

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

Sex articles are defined as:

- anything made for use in connection with, or for the purpose of stimulating or encouraging sexual activity; or
- acts of force or restraint which are associated with sexual activity; and
- anything to which the sub-paragraph below applies.

This sub-paragraph applies:

- to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- to any recording vision or sound, which:
  - is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
  - is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

#### **Sex Cinema**

The legislation defines a Sex Cinema as:

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity; or acts of force or restraint which are associated with sexual activity; or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.

The Secretary of State can exempt certain organisations from the requirements of licensing as a cinema.

## **Sexual Entertainment Venue**

The legislation defines a Sexual Entertainment Venue as:

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

Relevant entertainment means:

- 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).

The following are not sexual entertainment venues for the purposes of this schedule:

- sex cinemas and sex shops;
- premises at which the provision of relevant entertainment as mentioned is such that, at the time in question and including any relevant entertainment which is being so provided at that time:
  - 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;
  - no such occasion has lasted for more than 24 hours; and
  - 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));
  - premises specified or described in an order made by the relevant national authority.

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

In this paragraph:

‘audience’ includes an audience of one;

‘display of nudity’ means in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and in the case of a man, exposure of his pubic area, genitals or anus;

‘the organiser’ in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of the relevant entertainment or the premises;

‘premises’ includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted, and it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.

**Premises** include any vessel, vehicle or stall but do not include a private dwelling to which the public are not admitted.

**Sex Establishment** means a Sexual Entertainment Venue, Sex Cinema or a Sex Shop as appropriate.

**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). An audience can consist of just one person (e.g. where the entertainment takes place in private booths).

The Council will judge each case on its merits and the definition of relevant entertainment will apply to the following forms of entertainment as they are commonly understood:

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

The above list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, they should only be treated as indicative. Ultimately, decisions to licence premises as Sexual Entertainment Venues shall depend on the content of the entertainment provided and not the name it is given.

### **Spontaneous Entertainment**

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

**The Organiser** means any person who is responsible for the organisation or management of the relevant entertainment, or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.

The organiser must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a Sexual Entertainment Venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the Relevant Entertainment or the premises.

## **Appendix B**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS, RESTRICTIONS AND TERMS APPLICABLE TO SEX SHOPS AND SEX CINEMAS**

#### **Introduction**

1. In these conditions the Council means Cherwell District Council and all enquiries concerning this licence should be directed to Licensing at Cherwell District Council.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to Sex Shop and Sex Cinema premises.

#### **Management of the Premises**

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (the manager) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.

11. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.

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

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

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

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

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

17. The Licensee 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.

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

### **Opening of the Premises**

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

Monday – Saturday 9:30 am – 6:00 pm

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

### **Operation of the Premises**

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

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



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

### **External Appearance**

24. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.

25. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.

26. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

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

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

- (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
- (iii) A notice stating the opening hours of the establishment.
- (iv) The wording PRIVATE SHOP or ADULT SHOP but no other indication as to the nature of the business carried on at the licensed premises.

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

30. No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 22 and 25 or otherwise approved by the Council in writing; nor may any external loudspeakers be installed.

### **State, Condition and Layout of the Premises**

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

32. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

33. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or

screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

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

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

36. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

37. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.

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

#### **Goods Available in Sex Establishments**

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

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

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

#### **Information for Customers**

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

#### **Licensed Name**

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

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

## **Appendix C**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO MAIL-ORDER PREMISES**

#### **Introduction**

1. In these conditions the Council means Cherwell District Council and all enquiries concerning this licence should be directed to Licensing at Cherwell District Council.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
2. These conditions are only applicable to a Mail-Order Sex Shop premises.

#### **Management of the Premises**

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (the manager) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises. No person under the age of 18 years will be admitted to the premises at any time, for whatever reason or purpose.
10. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
11. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.

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

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

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

### **Operation of the Premises**

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

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

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

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

### **External Appearance**

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

20. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.

21. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

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

### **State, Condition and Layout of the Premises**

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

24. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

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

26. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

### **Goods Available in Sex Establishments**

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

### **Licensed Name**

28. The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as the Licensed Name, by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by in the paragraph below. Such name shall have been provided on the application form. Paragraph 16 of these conditions applies.

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

## **APPENDIX D**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO SEXUAL ENTERTAINMENT VENUE PREMISES**

#### **Introduction**

1. In these conditions the Council means Cherwell District Council and all enquiries concerning this licence should be directed to Licensing at Cherwell District Council.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a Sexual Entertainment Venue premises.

#### **Management of the Premises**

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (—the manager ) with the authority to direct activities within the Premises, shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
11. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex

Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

12. The Licensee shall take all reasonable precautions for the safety of the public and employees.

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

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

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

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

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

18. In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, then the Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the 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.

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

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

23. The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst relevant entertainment takes place to which this



licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.

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

### **Opening of the Premises**

25. Relevant entertainment may only be provided during the hours permitted by an authorisation under the Licensing Act 2003 unless a specific condition on the Sex Establishment Licence permits otherwise.

### **Operation of the Premises**

26. 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.

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

### **External Appearance**

28. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.

29. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.

30. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the Premises, with the exclusion of Door Supervisors.

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

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

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

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

- (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
- (iii) A notice stating the opening hours of the establishment.

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

35. No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 33 and 34 or otherwise approved by the Council in writing; nor may any external loudspeakers be installed.

### **State, Condition and Layout of the Premises**

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

37. 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.

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

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

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

41. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

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

### **Provision of Relevant Entertainment**

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

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

45. 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.

46. 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.

47. 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.

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

49. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.

50. Performers are never to be in the company of a customer except in an area open to the public within the Premises (excluding the toilets).

51. 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 or straddle the customer;
- (5) Performers must not place their feet on the seats.

52. 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.

53. 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.

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

The payment of an entry fee by customers to authorised members of staff.

The payment of a fee for relevant entertainment.

The purchasing of drinks by customers from authorised members of staff.

The placing of bank notes by the customer in a garter worn by females or an armband worn by males.

SIA door staff in the execution of their duties.

55. At all other times during the performance the performer will keep a minimum distance of at least 3 feet away from the customer.

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

57. Notices outlining condition 57 will be clearly displayed at each entrance to the premises and in the specified designated areas. Notices must state that no touching relates to customers touching performers and other persons working within the premises and vice versa.

58. Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

#### **Licensed Name**

59. The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as the Licensed Name, by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by in the paragraph below. Such name shall have been provided on the application form. Paragraph 16 of these conditions applies.

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

## **APPENDIX E**

### **Sexual Entertainment Venues**

#### Standard Conditions

1. Premises licensed as a Sexual Entertainment Venue under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, shall be used only for the purpose of a Sexual Entertainment Venue as defined in Paragraph 2A of the said Schedule 3 and shall not be used, wholly or in part, for any other purpose during the period the premises are licensed as a Sexual Entertainment Venue.
2. The permitted activities will only take place in designated areas approved by Cherwell District Council. These areas will be in full view of the audience. No part of the premises accessible to the public shall be concealed from observation without the written consent of the Council.
3. Dressing room (s) must be provided and shall not be accessible to members of the audience prior to, during or after the provision of entertainment
4. No person under the age of 18 years of age shall be admitted to or allowed on the premises whilst licensable activities are taking place. A clear notice shall be displayed at each entrance to the premises in a prominent position so that it can be easily read by persons entering the premises stating: NO PERSONS UNDER THE AGE OF 18 YEARS WILL BE ADMITTED
5. Entertainers that are not performing must not be in the licensed area in a state of undress
6. No lewd or indecent conduct or conduct likely to cause a breach of the peace shall be permitted on the premises.
7. Door Supervisors, registered in accordance with the Security Industry Authority, shall be on duty at all times when licensable activities are taking place.
8. The Licence Holder shall provide at least one female Door Supervisor during the same period.
9. The designated premises supervisor (DPS) or a responsible person nominated in writing shall be present on the premises during the entertainment to ensure compliance with all conditions.
10. A nominated female, authorised by the DPS, will be present to oversee the activities of female performers, and likewise, a nominated male present to oversee the activities of male performers.
11. Patrolling attendants, registered as Door Supervisors, shall continually monitor all entrances/exits/toilets.
12. Performers shall be aged not less than 18 years.

13. Only the performers shall provide the entertainment, no audience participation shall be permitted.
14. During any lap dancing performance, performers may not:
  - touch customers in any way;
  - approach closer than 30cms (12") from any part of a patron;
  - part their legs;
  - climb onto furniture provided for patrons; or,
  - simulate sex acts.
15. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
16. Any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals shall not exhibit in the entranceway or in the area surrounding the premises.
17. The Licence Holder shall not display outside the premises, or on any advertising material, photographs or other images which indicate and suggest that striptease or similar dancing takes place on the premises and which may be offensive.
18. CCTV shall be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.
19. CCTV cameras shall encompass all ingress and egress to the premises and all areas where the licensable activity occurs.
20. CCTV equipment shall be maintained in good working order and recordings kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on request.
21. The CCTV recording equipment and tapes/discs shall be kept in a secure environment under the control of the Licence Holder or other responsible named individual.
22. Appropriate signage representative in respect of the use of CCTV at the premises shall be displayed in conspicuous positions.
23. Any of the above conditions may be modified by the Head of Safer Communities, Urban and Rural Services at any time

## **Cherwell District Council**

### **Licensing Committee**

Minutes of a meeting of the Licensing Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 4 March 2011 at 10.00 am

Present: Councillor Tony Ilott (Vice-Chairman, in the Chair)

Councillor Timothy Hallchurch MBE  
Councillor P A O'Sullivan  
Councillor G A Reynolds  
Councillor Lawrie Stratford  
Councillor Rose Stratford  
Councillor Douglas Webb

Apologies for absence: Councillor Kieron Mallon  
Councillor Fred Blackwell  
Councillor Nick Cotter  
Councillor Michael Gibbard  
Councillor George Parish

Officers: Natasha Barnes, Licensing & Vehicle Parks Manager  
Paul Manning, Solicitor  
Natasha Clark, Senior Democratic and Scrutiny Officer

#### 15 **Declarations of Interest**

There were no declarations of interest.

#### 16 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

#### 17 **Urgent Business**

There was no urgent business.

#### 18 **Minutes**

The Minutes of the meeting held on 9 December 2010 were agreed as a correct record and signed by the Chairman.

19 **Minutes of meeting Tuesday 14 December 2010 of Licensing Sub Committee**

The Minutes of the meeting of the Licensing Sub-Committee on 14 December 2010 at 11am were noted.

20 **Minutes of meeting Tuesday 14 December 2010 of Licensing Sub Committee**

The Minutes of the meeting of the Licensing Sub-Committee held on 14 December 2010 at 2pm were noted.

21 **Minutes of meeting Tuesday 15 February 2011 of Licensing Sub Committee**

The Minutes of the meeting of the Licensing Sub-Committee held on 15 February 2011 were noted.

22 **Control of Sexual Entertainment Venues**

The Committee considered a report of the Head of Safer Communities, Urban and Rural Services which outlined the changes made in Section 27 of the Policing and Crime Act 2009 amending Schedule 3 of the Local Government (Miscellaneous Provisions) Act, 1982 which enable local authorities to be able to determine applications for sexual entertainment venues.

The Licensing and Vehicle Parks Manager advised the Committee that prior to 1982 there was no control over the operation of sex establishments. Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act (LGMPA) 1982 enabled local authorities the power to licence sex establishments, defined in this particular Act as sex shops and sex cinemas. The Council adopted these provisions on 2 June 1983.

The Committee was advised that the Policing and Crime Act 2009 was introduced on 6 April 2010. This Act introduced changes to Schedule 3 of the Local Government (Miscellaneous Provisions) Act. Local authorities had until 6 April 2011 to formally adopt the changes in the legislation. Failure to do so would mean that the Council would subsequently be required to consult local businesses and residents "as soon as is reasonably practicable" on whether or not to adopt the amended provisions.

The Licensing and Vehicle Parks Manager explained that Cherwell District Council currently had two premises that would require licensing under the new provisions. Both operators had been notified that they would be required to apply for new licenses to continue operating and provided with guidance on the process. The Committee was advised that should the amendments be adopted no new applications would be granted until such time that the council had a full policy in place to deal with such matters. In the interim, it was recommended that the Committee approve standard conditions to be attached to licences issued to the existing traders.



The Committee was advised that there was currently no fees set for applications in relation to sexual entertainment venues as this type of application had not previously existed. The Policing and Crime Act 2009 permitted local authorities to charge a reasonable and proportionate fee. The matter of fees would be taken into consideration when formulating the new policy and reviewed as part of the consultation in line with neighbouring authorities.

The Committee considered the implications of not adopting the legislative amendments and noted that if the sexual venue establishments were not regulated, they could continue to operate anyway but without any controls. By adopting the amendments and regulating the venues, all applications would be consulted upon and should a license be granted, Cherwell District Council would be able to apply controls and monitor compliance with these controls in the same manner as with all other licences granted by the authority.

Members discussed the timeframe for the implementation of the policy and agreed that it should be in place within 12 months. Members requested that the Licensing Officers provide updates to Committee members on the progress of developing the policy.

### **Resolved**

- (1) That it be agreed that, in accordance with Section 2 (1) of the Local Government (Miscellaneous Provisions) Act, 1982, the Council resolves that Schedule 3 of that Act as amended by Section 27 of the Policing and Crime Act, 2009, shall apply to the District of Cherwell with effect from 4 March 2011.
- (2) That it be agreed that the proposed conditions governing the operation of Sexual Entertainment Venues as set out in the annex to these minutes (as set out in the minute book) be approved and attached to all licences issued by the Council.
- (3) That the Head of Safer Communities, Urban and Rural Services be delegated, in consultation with the Chairman of the Licensing Committee, to make any minor alterations to the setting of fees in relation to the processing of applications for sexual entertainment venues.

The meeting ended at 10.40 am

Chairman:

Date:

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*Bodicote House  
Bodicote  
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Oxfordshire  
OX15 4AA*  
  
*www.cherwell.gov.uk*

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Please ask for: Claire Bold

Direct Dial: 01295 753744

Email: [claire.bold@cherwell-dc.gov.uk](mailto:claire.bold@cherwell-dc.gov.uk)

Our Ref: DRAFT\_POLICY\_SEV

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12 August 2013

Dear Sir/Madam,

## **Sex Establishment Licensing: Draft Policy Consultation 2013**

Cherwell District Council in its capacity as Licensing Authority is responsible for dealing with all licensing applications received by the council, investigating complaints, and enforcing licensing conditions on behalf of the council in relation to 'sex establishments'. In order to fulfil these functions, the Council has drafted a Policy in relation to the actions it will take when carrying out these functions. This Policy is intended to set out clear and concise guidance, procedure and principles for the benefit of the Licensing Authority, the community, applicants and other relevant organisations. The Policy also contains standard conditions which will be applied to the different types of sex establishment which form part of any licence granted.

In the interests of the environment I have not included a paper copy of the draft Policy. The document is on deposit for public inspection at all of our district offices and via the consultation portal of our website <http://consult.cherwell.gov.uk/portal/environment/urban/sep>

I would be grateful for any comments you may have before Monday 16 September 2013 when the consultation period closes. I will assume that if I don't receive any comments by the closing date you are satisfied with the draft document as it stands. Responses can be made online using the consultation portal of our website <http://consult.cherwell.gov.uk/portal>, in writing to the above address, via email to [licensing@cherwell-dc.gov.uk](mailto:licensing@cherwell-dc.gov.uk) or by fax, for the attention of the Licensing Team, to 01295 753744.

I would be very grateful if could take the time to read the draft policy and let me have your views, however should you have any queries regarding this matter, please do not hesitate to contact me and I will be happy to discuss the document with you.

Yours sincerely,



Claire Bold  
Licensing Team Leader

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## **Stakeholders and Responsible Authorities**

Banbury Town Council	The Town Hall, Bridge Street, Banbury, OX16 5QB
Bicester Town Council	The Garth, Launton Road, Bicester, Oxon OX26 6PS
Kidlington Parish Council	Exeter Hall, Oxford Road, Kidlington, OX5 1AB
The Planning Authority	Planning and Development Services, Cherwell District Council, Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA
Anti Social Behaviour Team	Cherwell District Council, Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA
Public Protection Team	Cherwell District Council, Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA
Thames Valley Police	Licensing Department, Thames Valley Police, E Block HQ South, 165 Oxford Road, KIDLINGTON, Oxfordshire, OX5 2NX
Fire & Rescue Service	Oxfordshire Fire and Rescue Service, Cope Road, Banbury, OX16 7EY
Trading Standards	Oxfordshire County Council, Trading Standards Service, Electric Avenue, Ferry Hinksey Road, Off Botley Road, Oxford, OX2 0BY
Cherwell Community Safety Partnership	Cherwell District Council, Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA
G's	G's , Deans Court, Market Square, Bicester, OX26 6AA
Venus Night Club	47 Broad Street, Banbury, OXON, OX16 5BT
Oxfordshire Safeguarding	Children Board (OSCB), 3rd Floor County Hall, New Road, Oxford, OX1 1ND
Revenue & Customs	National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ

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No.	Policy Reference	Comments	Current Position	Proposed Amendment
1.	Page 20, Paragraph 16	<p>My main concern is that the policy of CDC ensures the protection of vulnerable women and aids the prevention of trafficking. I note paragraph 16 page 20 16. "The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks." I believe this statement is open to interpretation of 'adequate' and should be more carefully defined. Our business in common with many in Banbury requires staff members to provide original birth certificates, driving licences or passports ( along with appropriate qualification certificates) to check their identity and for the avoidance of fraud at the start of their employment. Across the UK our profession has inadvertently employed fraudsters over the years. Copies of these documents are made and held in the employees personal records. I would suggest that it is not unreasonable for the premises licence holder to be required under the terms of the licence to collect verify, copy and maintain this information and allow inspection of such information by officials as required. Where possible the identification record should be 'photo' identification but if this is not possible (e.g. with a birth certificate) a passport style photo should be attached to the employee personal record. This is becoming standard business practice so should not be objected to by a 'good employer'. The employer and employee should also be advised that this information may be cross checked with official records held by UK Government. This information</p>	<p>Policy currently states:</p> <p>All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.</p>	<p>Amend wording to state the following:</p> <p>All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.</p> <p>The Licensee must ensure they have a written policy depicting how they will verify such details which will be approved by the Licensing Authority.</p> <p>Evidence of adequate identity and AGE checks could include (but is not limited to) a copy of the employee's passport , driving licence or birth certificate signed and dated by the employer on the date the identity and age was checked. Such records must be made available to the Licensing Authority and other responsible authorities upon request.</p>

		will help CDC to ensure that no performer is under 18 years of age and has not entered the country in an illegal way (e.g. trafficking). Such an amended paragraph may read. The Licensee must maintain adequate records for each employee. The records must include: - names, current addresses dates of birth of performers including EVIDENCE OF adequate identity and AGE checks. Evidence of adequate identity and AGE checks could include (but is not limited to) a copy of the employee's passport , driving licence or birth certificate signed and dated by the employer on the date the identity and age was checked. Such records must be made available to appropriate authorities on request.		
2.	Page 4, Paragraph 3.3	It would be good to include reference here also to child rights, in addition to the Human rights, as these are a separate UN convention, ratified by the UK;	Policy currently states:  Notwithstanding matters contained within this Policy, consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for sex establishment licences.	Amend wording to state the following:  Notwithstanding matters contained within this Policy, consideration will be given to the provisions of the Human Rights Act 1998 and other appropriate legislative and EU directives when considering applications for sex establishment licences.
3.	Page 6, Paragraph 8.2	typo in 'licejsing'		Corrected.
4.	Page 6, Paragraph 9.3	Does the application form include details of the person sufficient to satisfy section 10.1?	Application forms currently being devised for when policy comes into force.	All relevant sections of this policy will be taken into account when devising application forms.



5.	Page 7, Paragraph 9.4 & 9.5	This notification is insufficient given the response that an application is likely to receive as many people drive past notices or don't read to the back of the local paper (a sex establishment was only highlighted by the local paper in the past after it had gone through the planning process). It would be good to include, specifically for his policy, a) notification through letters to homes, schools, etc b) a larger advert, rather than the statutory notice advert (perhaps paid for by the applicant) or c) a press release when these applications come in as media will ensure that news spreads	These are the requirements as set out by legislation	The Licensing Authority must ensure that it is not seen to entice objections and abide by the legislative requirements it is bound by. Should legislation change, the Licensing Authority will reflect these changes through amendments to its policies and procedures.
6.	Page 7, Paragraph 9.7	It is good to include the Child Protection Officers	Noted.	Noted.
7.	Page 9, Paragraph 10.10	How can the 'honesty' of an applicant be assessed and how can you make sure that one person is not applying as a front for someone of more dubious character?	This will be addressed through the application process.	The application process will require the applicant to submit supporting documents so that this can be ascertained. This will be in the form of proving identity and may also include checks through the Disclosure & Barring Service (should such checks fall within their criteria). These will be further defined when defining the application forms.
8.	Page 10 Paragraph 10.10	While not intending to be exhaustive, a clear omission is around the protection of women from violence and trafficking, either from customers or the applicant. This needs addressing. This section should also address how the applicant will satisfy the right-to-work issues, keeping records of passports/birth certificates as a proof of right to work. Given the incidence of trafficking in the sex industry, this requirement is even more necessary for sex establishments than for other businesses.	Policy currently states: the reliability that can be placed upon the applicant to act in the best interests of the performers e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored	Primary legislation is in place to deal with these specific issues and the Licensing Authority is unable to duplicate such requirements through their policies as they would have no power to enforce it. However, such matters would be monitored and the relevant authorities alerted in these circumstances.

9.	Paragraph 10.10	I can't find the enforcement policy on the CDC website, but more detail is needed as to how these ideals during application can be monitored during unannounced visits is needed in the policy.	Unclear as to which section of the policy the consultee is referring to.	Enforcement Policy is available on the Council's website.  All enforcement is carried in a proportionate manner to the circumstances that require it.
10.	Page 11 Paragraph 14.1	Where a licence is transferred, there is no reference to the character checks of section 10.10 being carried out for the new applicant.	This will be addressed through the application process.	As point 7.
11.	Page 14 Paragraph 21.1	While crime may not be usual among the customers, trafficking and abuse within the sex-industry is widespread. This needs to be acknowledged in this section, along with details of how the enforcement will ensure the protection of vulnerable women.	Policy currently states:  It is acknowledged that sex establishments are not generally a source of crime or disorder. The Licensing Authority will carry out twice yearly inspections of premises, unless there are exceptional circumstances or intelligence requires otherwise. Enforcement action will be taken where necessary. The Licensing Authority's approach to enforcement is set out in the enforcement policies which are available on our website <a href="http://www.cherwell-dc.gov.uk">www.cherwell-dc.gov.uk</a>	As point 8.

## Cherwell District Council

### Licensing Committee

21 October 2013

<b>Licensing Department Updates</b>
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### Report of Head of Community Services

This report is public

#### Purpose of report

This report is to advise the Licensing Committee of current and future developments within the Licensing Department

#### 1.0 Recommendations

The meeting is recommended:

- 1.1 To note the report.

#### 2.0 Introduction

- 2.1 The Licensing Department is responsible for regulating, administering and enforcing legislation for the Licensing Act 2003, Gambling Act 2005, Street Trading, Sex Establishment Venues and Hackney carriage and Private Hire Licensing. All of these areas have specific policies and procedures to follow in addition to legislative requirements to update such policies as regular intervals.

#### 3.0 Report Details

##### 3.1 The Licensing Act 2013

- 3.2 The Licensing Act 2003 requires the Licensing Authority to have a Statement of Licensing Policy setting out its policies in respect of this specific legislation.

- 3.3 The development and adoption of the Statement of Licensing Policy is a statutory requirement under the Licensing Act 2003. The function of approving the Statement and the subsequent reviews of it are the responsibility of the Licensing Committee in accordance with Cherwell District Councils Constitution and Scheme of Delegation.

- 3.4 A review of the policy is required every three years. A consultation on amendments to the policy to ensure it is inclusive of all recent legislative changes has just taken place. The consultation period as part of this review ended on 14 October 2013. At the time of writing this report, no responses had been received on the proposed amendments.
- 3.5 At the end of the consultation, all responses will be reviewed and a final draft of the policy will be put to the Licensing Committee for approval and/or amendment in December 2013.
- 3.6 The final policy will be published in January 2014.

### **3.7 The Licensing Act 2013**

- 3.8 The Home Office is currently seeking opinions upon its approach to personal licences issued under the Act.
- 3.9 Current personal licences are issued for 10 years. 2015 will see the tenth anniversary of the Licensing Act 2003 being in force and could result in a large number of these licences being due for renewal.
- 3.10 The Home Office is seeking views on alternatives to the personal licence system and proposing that there will be no need for a national personal licence system and it will be down to local Licensing Authorities to determine their own requirements.
- 3.11 The full consultation can be viewed at:  
<https://www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives>
- 3.12 Prior to the end of the consultation period, the Head of Community Services will be seeking to submit a response to the consultation after discussions with the Chairman of the Licensing Committee.
- 3.13 Should any members of the Licensing Committee wish to discuss these proposals in more detail, please contact Claire Bold, Licensing Team Leader.

### **3.14 Hackney Carriage and Private Hire Vehicle and Driver Licensing**

- 3.15 The current policies in relation to the licensing of Hackney Carriage and Private Hire Licensing have been in place for five years.
- 3.16 The Law Commission is currently reviewing all legislation in relation to Hackney carriage and Private Hire Licensing with a view to possible legislative amendments. It is hoped that their comments will be published in January 2014.
- 3.17 The Licensing Department has also been contacted by the North Oxfordshire Hackney Association who has expressed concerns over some of the current requirements upon licence holders, in particular in relation to the age of vehicles permitted to be licensed.

- 3.18 Taking into account the period of time that the current policies have been in place for, the Law Commissions review and the requests of NOHA, the Licensing Department are proposing to undertake a review of its policies to coincide with the findings of the Law Commission.
- 3.19 A formal request to go to consultation will be put before the Licensing Committee towards the end of 2013/beginning of 2014.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 This report is for information only.

## **5.0 Consultation**

None.

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: No options – report is purely for information.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 None – report for information only. Should any of the actions outlined in the report being taken, full risk assessments will be carried out.

Comments checked by:

Joanna Kaye, Service Accountant, 01295 221545,  
joanna.kaye@cherwellandsouthnorthants.gov.uk

### **Legal Implications**

- 7.2 None – report for information only. Should any of the actions outlined in the report being taken, full risk assessments will be carried out.

Comments checked by:

Paul Manning, Solicitor, 01295 221691, Paul.manning@cherwell-dc.gov.uk

### **Wards Affected**

All

## Links to Corporate Plan and Policy Framework

Detailed in current Service Plan

### Document Information

<b>Appendix No</b>	<b>Title</b>
N/A	None
<b>Background Papers</b>	
None	
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