



NOTICE OF MEETING

LICENSING SUB-COMMITTEE

WEDNESDAY, 19 APRIL 2023 AT 11AM

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to Lisa Gallacher 023 9283 4056
Email: Democratic@Portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact above.

Public health guidance for staff and the public due to Winter coughs, colds and viruses, including Covid-19

- Following the government announcement 'Living with Covid-19' made on 21 February 2022 and the end of universal free testing from 1 April 2022, attendees are no longer required to undertake any asymptomatic/ lateral flow test within 48 hours of the meeting; however, we still encourage attendees to follow the public health precautions we have followed over the last two years to protect themselves and others including vaccination and taking a lateral flow test should they wish.
- We strongly recommend that attendees should be double vaccinated and have received any boosters they are eligible for.
- If unwell we encourage you not to attend the meeting but to stay at home. Updated government guidance from 1 April 2022 advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high temperature. From 1 April 2022, anyone with a positive Covid-19 test result is still being advised to follow this guidance for five days, which is the period when you are most infectious.
- We encourage those attendees with an underlying health condition to wear a face covering while moving around crowded areas of the Guildhall.
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- Hand sanitiser is provided at the entrance and throughout the Guildhall. All attendees are encouraged to make use of hand sanitiser on entry to the Guildhall.
- Those not participating in the meeting and wish to view proceedings are encouraged to do so remotely via the livestream link.

Membership

Committee Members: Councillors Scott Payter-Harris (Chair), George Madgwick (Vice Chair), Yinka Adeniran, Dave Ashmore, Kimberly Barrett, Stuart Brown, Tom Coles, Jason Fazackarley, Lewis Gosling, Ian Holder, Leo Madden, Asghar Shah, Benedict Swann, Linda Symes and Daniel Wemyss.

The panel today consists of: Councillors Dave Ashmore, Tom Coles and Daniel Wemyss.
The reserve member is Councillor Lewis Gosling.

(NB This agenda should be retained for future reference with the minutes of this meeting).

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Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendations). Email requests are accepted.

A G E N D A

- 1 Apologies for absence.**
- 2 Declarations of Members' Interests**
- 3 Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) Licensing of Sex Establishments - Sexual Entertainment Venues Application for the renewal of a licence - Wellhot Ltd - Elegance 1 Granada Road Southsea PO4 0RD (Pages 3 - 118)**

Purpose.

The purpose of this report is for the committee to determine an application for the renewal of a sexual entertainment venue licence in respect of the premises situated at 1 Granada Road, Southsea PO4 0RD and known as Elegance. The application has been submitted by Wellhot Ltd.

RECOMMENDED that the committee determine this application.

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Agenda Item 3

REPORT TO: LICENSING SUB-COMMITTEE – 19 APRIL 2023

REPORT BY: LICENSING MANAGER

REPORT AUTHOR: NICKII HUMPHREYS

Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009)

Licensing of Sex Establishments - Sexual Entertainment Venues

Application for the renewal of a licence - Wellhot Ltd - Elegance 1 Granada Road Southsea PO4 0RD

1.0 Purpose of report

The purpose of this report is for the Committee to determine an application for the renewal of a sexual entertainment venue licence in respect of the premises situated at 1 Granada Road, Southsea, PO4 0RD and known as Elegance. The application has been submitted by Wellhot Ltd.

2.0 Recommendation

RECOMMENDED

(a) that the Sub-Committee determine the application for the renewal of a sexual entertainment venue licence in respect of the premises situated at 1 Granada Road Southsea Portsmouth PO4 0RD and known as Elegance; and

(b) in determining this application, the Sub-Committee shall have regard to paragraph 7.10a of its statement of licensing policy as set out below:

Notwithstanding the provisions of paragraph 7.10 (relating to the numerical control on the number of sex establishments in a particular locality), the presumption to refuse shall not apply to:

- the renewal, transfer or variation of an existing sex establishment licence; and***

(c) that the Sub-Committee has considered its statutory duty under the Equality Act when determining this application.

3.0 Adoption of Policy

3.1 Portsmouth City Council ("PCC") originally adopted the provisions relating to Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the "1982 Act") in December 1982. These provisions provided for the control of sex shops and sex cinemas along with the licensing requirements.

3.2 On 22 March 2011, PCC resolved to adopt Schedule 3 of the 1982 Act (as amended by section 27 of the Policing and Crime Act 2009 (the "2009 Act")) so that it could regulate sexual entertainment venues ("SEVs") in the city.

- 3.3 On 12 October 2012 the Licensing Committee determined its sex establishment licence policy and a copy is attached as **Appendix A** to this report. The policy also includes the standard conditions which were approved by the Committee in October 2013.

4.0 Background Information

- 4.1 The application for the renewal of a sexual entertainment venue licence in respect of Elegance, 1 Granada Road, Southsea has been submitted by Wellhot Ltd.

The company directors listed for Wellhot Ltd are Jaspal Singh Ojla (Director) and Rashwinder Kaur Ojla (Director). Wellhot Ltd is also the holder of the premises licence for these premises issued in accordance with the Licensing Act 2003 for the purposes of the sale by retail of alcohol, the provision of regulated entertainment and late night refreshment.

The SEV licence authorises the provision of sexual entertainment between the hours of 22:00 and 04:00 hours every day.

- 4.2 These premises have been licensed under the Licensing Act 2003 since 2005 when responsibility for alcohol licensing was transferred from the Magistrates' Courts to local authorities. The premises have also been separately licensed as a sexual entertainment venue since 2012 in accordance with section 27 of the Policing and Crime Act 2009

The area designated for the provision of sexual entertainment is located to the ground floor of the rear of the building only. The business operating at the front of the premises (Moon and Shine) has a separate licence for the sale of alcohol, regulated entertainment and late night refreshment and is operated by an independent and separate company.

The applicant has confirmed that neither of the directors' circumstances affect any grounds for refusal as set out in paragraph 12, Schedule 3 of the 1982 Act. Sections 10 and 11 of this report sets out grounds for refusal of licences.

- 4.3 A copy of the renewal application is attached as **Appendix B**.

5.0 Statutory Advertising Requirements

- 5.1 Schedule 3 of the 1982 Act requires that the applicant give formal notice of an application for the renewal of a sex establishment licence. Satisfactory notice was given both to the licensing authority and Police. Equally, appropriate public notice was displayed on the premises and given in a local newspaper.

Due to publication timescales in the local newspaper, the applicant missed the statutory deadline of the notice appearing in the press. However, to resolve this issue, the period for objections to be made was extended and the public notice on the premises was amended to extend the date for objections to be made.

6.0 Consultation with other Authorities/PCC services

- 6.1 Details of the application were notified to the Police, Fire Authority, Planning, Children's Safeguarding and Ward Councillors.

No objections were made in response to the notification of the application.

7.0 Objections Received

- 7.1 As mentioned in paragraph 5 above, the 1982 Act requires the applicant to give formal notice of the application for the renewal of the sex establishment licence.

The 1982 Act states that any person who wishes to object to an application for the grant, renewal or transfer of a licence shall give notice in writing of their objection to the licensing authority which shall state, in general terms, the ground of the objection, not later than 28 days after the date of the application.

Any person may object to an application. **However, objections must be relevant to the grounds set out in the legislation. Objections based solely on moral grounds/values must not be considered.**

- 7.2 29 Objections have been received in response to the renewal application. The 1982 Act protects the rights of objectors to remain anonymous.

The licensing authority therefore will not reveal names or addresses of any objector without their consent.

However, general information such as if the objector lives within a certain distance of the premises in question and the general grounds of the objection can be made public in order that the applicant is afforded the opportunity to rebut any concerns so far as geographical vicinity or locality is concerned as well as being informed of the nature of the concerns raised. A summary of objections received within the 28 day notice period is attached as **Appendix C**.

In terms of geographical information, of the 29 objections:

- 1 objector resides in the PO2 area
- 15 objectors reside in the PO4 area
- 4 objectors reside in the PO5 area
- 1 objector resides in the PO6 area
- 8 objectors unknown area of residence

8.0 The Legislation - Summary and Interpretation

- 8.1 In considering this application, there are various statutory definitions concerning the licensing of sex establishments which are set out within this report to assist members' consideration of this application.

- 8.2 The Committee are sitting in a quasi-judicial capacity and therefore are obliged to consider the application in accordance with the rules of natural justice. The Committee must determine the application on merit. No decision, opinions or

factual findings must be made on "moral" grounds and all the facts must be considered before reaching a decision.

- 8.3 A sex establishment is either a sex shop, a sex cinema or sexual entertainment venue. In this case the application is for the renewal of a sexual entertainment venue licence.
- 8.4 Section 27 of the Policing and Crime Act 2009¹ (the "2009 Act") introduced a new category of sex establishment called "sexual entertainment venues" (SEVs) which enables local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the 1982 Act. Previous definitions were limited to either sex shops or sex cinemas.

9.0 Sexual Entertainment Venues

- 9.1 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a "sexual entertainment venue" and "relevant entertainment" for the purposes of the statutory provisions.

A sexual entertainment venue is defined as:

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

Relevant entertainment is defined as:

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

It should be noted that an audience can consist of just one person e.g. when the entertainment takes place in private booths.

Relevant entertainment is therefore different from regulated entertainment as defined in the Licensing Act 2003.

- 9.2 In terms of considering what constitutes "relevant entertainment" each case shall be judged on its merits but the informal guidance produced by the Home Office suggests that the definition of relevant entertainment would apply to the following forms of entertainment as they are most commonly understood:
- Lap dancing
 - Pole dancing
 - Table dancing
 - Strip shows
 - Peep shows
 - Live sex shows.
- 9.3 However, the above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary and therefore should merely be used as

¹ Section 27 of, and Schedule 3 to the Policing and Crime Act 2009 came into force in England on 6 April 2010 as did the Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010.

an indicator for certain types of entertainment as 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.

- 9.4 The relevant entertainment must be provided for the financial gain of the “organiser” or “entertainer”.

“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 cases this definition will relate to the manager of the premises but there could be circumstances where it will relate to an individual who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.

- 9.5 The 1982 Act also sets out those premises that are NOT sexual entertainment venues. These are:

- Sex shops and sex cinemas;
- Premises which provide entertainment on an infrequent basis. These are defined as premises where –
 - (a) No relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - (b) No such occasion has begun within a period of one month beginning with the end of the previous occasions; and
 - (c) No such occasion has lasted longer than 24 hours.
- Other premises or types of performances or displays exempted by an order of the Secretary of State.
- Private dwellings with no public admittance.

- 9.6 General guidance has been produced by the Home Office in relation to SEVs and this is attached as **APPENDIX D** to this report.

- 9.7 A licence can be granted and/or renewed for a period of 1 year or such shorter period as considered necessary. Licences can be granted subject to terms, conditions or restrictions and can be cancelled, revoked and transferred.

- 9.8 The Committee has a statutory duty to have regard to the comments, if any, of the Police.

As mentioned in paragraph 6.1 above, the Police have not submitted any objections/comments in relation to this application.

10.0 Statutory grounds for refusal of Licences

- 10.1 The 1982 Act sets out a number of statutory grounds where licences **cannot** be granted or renewed. These grounds are:

- a) A licence cannot be granted to a person under 18;
- b) A licence cannot be granted to a person disqualified under the Act;

- c) A licence cannot be granted to a person not resident in the UK;
- d) A licence cannot be granted to a body corporate which is not incorporated in the UK;
- e) A licence cannot be granted to a person, who has, within 12 months immediately before the date of an application, been refused the grant of a licence for the same premises.

10.2 The above provisions for refusal of the application do not apply to this applicant.

11.0 Discretionary grounds for refusal of Licences

11.1 The 1982 Act allows for licences to be refused using discretion; for which careful and balanced reasons should be given. Those grounds are:

- That 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, 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 they made the application themselves;
- That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Authority consider is appropriate for that locality;
- That the grant or renewal of the licence would be inappropriate having regard to:
 - i. the character of the relevant locality;
 - ii. the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises in respect to which the application is made.

12.0 Sex Establishment Policy Guidelines

12.1 The current policy in relation to the consideration of applications in respect of the discretionary grounds for refusal of licences are set out in section 7 of the sex establishment licensing policy adopted by the Licensing Committee. For ease of reference, relevant sections of the policy have been reproduced below.

12.2 *Unsuitability of applicant*

When considering the suitability or otherwise of an applicant, the Licensing Authority will have due regard to not only whether or not an applicant has been convicted of an offence, but any other grounds which would call into question their suitability. Relevant sections of the policy are:

Paragraph 7.3

The Licensing Authority will wish to be satisfied that:

- *The applicant is sufficiently trustworthy to run the sex establishment in accordance with the terms and conditions imposed on any licence granted, as well as the law;*
- *The welfare of the performers at the licensed premises will be protected;*
- *That the safety of the public attending the premises will be provided for; and*
- *The needs and rights of persons/businesses living or working in the area, and indeed the area itself, are recognised and respected.*

Paragraph 7.6

In considering the overall suitability of an applicant to hold a licence, the following factors will be taken into account by the Licensing Authority:

- *Honesty and integrity of the applicant;*
- *Relevant experience of running similar sex establishments;*
- *Understanding of the terms and conditions relating to sex establishments;*
- *Reliability to run the premises in accordance with the licence;*
- *Track record of compliance in relation to other premises and/or licensing regimes;*
- *Intention to manage the premises themselves or to employ others in that role;*
- *Existence or otherwise of a management structure to demonstrate compliance with operating conditions incorporating such matters as:*
 - *Managerial competence*
 - *Presence*
 - *Credible management structure, which will include employment of individuals who have sufficient experience in running such premises*
 - *Internal enforcement of rules (including training, monitoring, publication of rates for performers and customers)*
 - *Viable business plan*
 - *Demonstrate ability to act in the best interests of performers*
 - *Preparation and enforcement of a written welfare policy for performers*
 - *Procedures in place to ensure performers are adults and entitled to live and work in the UK*
 - *Demonstrate measures to protect the public (such as transparent rate of charges and prevention of solicitation)*

In all cases, the Licensing Authority will give serious consideration to the observations of the Police in relation to concerns expressed about the suitability of an individual applicant, body corporate or an individual officer of a company.

12.3 Unsuitable manager of the business or other beneficiary

Paragraph 7.7

The Licensing Authority will need to be satisfied that the proposed premises and activities are not a device to facilitate illegal activity and that those persons in ultimate control of the sex establishment can demonstrate that they will operate the premises in such a manner so as to promote the objectives of the legislation.

12.4 Number of sex establishments

Paragraph 7.8

PCC recognises that the 1982 Act allows discretion by the Licensing Authority to impose a numerical control on the number of sex establishments in a particular locality (including the provision that "nil" may be an appropriate number) and that this control can apply to both the overall number of sex establishments and also the number of each kind.

Paragraph 7.10

..... the Licensing Authority has reached the preliminary conclusion that there is no place within the City of Portsmouth of which it could be said that it was situated in a locality in which it would be appropriate to licence a sex establishment.

Paragraph 7.10a

Notwithstanding the provisions of paragraph 7.10 above (relating to the numerical control on the number of sex establishments in a particular locality), the presumption to refuse shall not apply to:

- ***The renewal, transfer or variation of an existing sex establishment licence***

12.5 Character of the relevant locality

Paragraph 7.11

Applicants should be aware that the Licensing Authority may refuse a licence on this ground regardless of what may or may not be an appropriate number of sex establishment licences within the locality.

In considering whether it is appropriate to grant/renew a licence having regard to the character of the relevant locality, the Licensing Authority will take account of the following factors, together with such other factors as may be considered relevant in the individual circumstances of the case:

- *The general character of the area (e.g. family residential, family leisure or educational area);*
- *The impact of the premises on the character of the area;*
- *The current use for night-time leisure activities including existing sufficient representation of sex-orientated uses;*
- *Gender equality issues, including whether the proposed use, particularly at night, would deter women from using the area comfortably or at all);*

- *Raising the fear of crime in the locality should further sex-orientated uses be authorised;*
- *Effects upon regeneration and tourism in the area;*
- *Level of genuine demand (including the risk that excess supply would drive down standards and lead to problems associated with compliance with conditions).*

12.6 Use of premises in the vicinity

Paragraph 7.12

Applications for sex establishment licences may be refused where the Licensing Authority considers that the grant/renewal of a licence would be inappropriate having regard to the use of other premises in the vicinity. Whilst the term "vicinity" is not defined in the 1982 Act, the Licensing Authority considers that "vicinity" will be a smaller area than a "locality" as referred to in paragraph 7.8 of the policy.

Paragraph 7.13

Applicants should be aware that the Licensing Authority may refuse a licence on this ground regardless of the character of a locality or indeed what may or may not be an appropriate number of sex establishment licences within it.

Paragraph 7.14

When considering the type of uses which may be deemed to be inappropriate, due regard will be given to the suitability of the proposed location of the premises and will take into account relevant factors including, but not limited to, the presence of what may be regard as sensitive issues (e.g. dwellings, places of worship, schools, youth clubs, community centres, women's refuges, libraries, parks or swimming pools).

Paragraph 7.15

Without prejudice to the above paragraph, applicants should also be aware that applications for sex establishment licences will normally be refused if they are proposed to be located in the vicinity of:

- *Places of worship*
- *Swimming pools*
- *Leisure centres*
- *Parks*
- *Youth centres*
- *Historic buildings*
- *Tourist attractions*
- *Educational premises*
- *Schools*
- *Play areas*
- *Nurseries*
- *Children's centres*

Or any other similar premises.

12.7 **Layout, character or condition**

Paragraph 7.17

When considering the issue of a licence in terms of its layout, character or condition, the Licensing Authority will give consideration to general factors such as:

- *Provision of proper access for disabled people;*
- *Safe in terms of its structure and overall standards of maintenance for the building;*
- *Sufficient provision for surveillance and overall supervision;*
- *Standard of "fit out" of the premises.*

While the Licensing Authority will not refuse a licence merely because the premises do not have planning permission for use as a sex establishment, the authority will take into account the absence of planning permission to the extent relevant to the statutory grounds for refusal.

13.0 **Public Sector Equality Duty and The Human Rights Act 1998**

13.1 The Licensing Sub-Committee must give due consideration to the Public Sector Equality Duty contained within the Equality Act 2010. In exercising its statutory licensing function, the Sub-Committee must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Any decisions which may have a negative impact on equality should only be taken after due consideration of any such negative impact and the ways in which such impact may be mitigated.

13.2 The Human Rights Act 1998 applies to this matter. The sub-committee must act proportionately and consider the rights of all parties affected by the application.

14.0 **Consideration of the Application**

14.1 The Committee must consider the application having regard to the matters outlined in this report.

14.2 If the Committee is mindful to renew the licence, it should consider whether or not it is appropriate to impose conditions. Conditions may be "standard" and/or contain special conditions to reflect on individual premises.

There are no special conditions attached to the current licence.

14.3 A copy of the Council's current standard conditions and those specific to sexual entertainment venues are attached as appendices to the sex establishment policy referenced in **APPENDIX A** to this report.

14.4 If the Committee is mindful of refusing the application, then valid, proportionate and relevant reasons must be given in writing within 7 days to the applicant. There are no grounds to refuse the application on the statutory grounds and therefore the Committee's deliberations must be focused on the following discretionary grounds for refusal:

- Are the number of sex establishments in the relevant locality at the time the application is made equal to or exceed the number which the Committee consider is appropriate for that authority?
- Is the grant/renewal of the licence inappropriate having regard to:
 - The character of the relevant locality;
 - The use to which any premises in the vicinity are put; or
 - The layout, character or condition of the premises.

15.0 Appeals

15.1 If the Committee refuse to renew the licence on the discretionary grounds set out in paragraph 14.4 above, there is no right of appeal for the applicant.

However, this does not prevent the applicant from applying to the High Court to seek a judicial review of the Committee's decision.

12.0 Appendices

Appendix A Sex Establishment Policy

Appendix B Renewal Application Form (Redacted)

Appendix C Summary of Objections

Appendix D Sexual Entertainment Venues - Guidance from the Home Office



Licensing Manager

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Sex Establishment Licensing Policy

October 2012

www.portsmouth.gov.uk

1.0 Background to Consultation on Policy

- 1.1 On 22 March 2011 Portsmouth City Council (“PCC”) decided to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) (as amended by section 27 of the Policing and Crime Act 2009 (“the 2009 Act”)) so that it can regulate sexual entertainment venues (“SEVs”) in the City.
- 1.2 For ease of reference, the full resolution of PCC is set out below (Council Minute No. 31/11 refers):
- *Council note that at its meeting on 23 February 2011, the Licensing Committee considered the recent amendments to the 1982 Act and recommended that Council adopt the new licensing arrangements for SEVs;*
 - *Council resolve to adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, and the following recommendations shall apply:*
 - *That the new statutory provisions shall apply to the Portsmouth UA area with effect from 1 November 2011;*
 - *That Council arranges for its Licensing Committee to discharge its statutory functions (including the setting of fees) under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended;*
 - *That the Licensing Manager be given authority to arrange formal publication of the statutory notices in a local newspaper;*
 - *In such cases where no objections are made to the grant, renewal, transfer or variation of such licences, the City Solicitor be given delegated authority to approve such applications;*
 - *That the Licensing Manager prepares a draft policy together with standard conditions applicable to sexual entertainment venues for consideration and adoption by the Licensing Committee and that the Licensing Manager should include in that draft policy his/her consideration of whether applications should be refused if they are within three miles of any place of worship, swimming pool, leisure centre, park, youth centre, historic building, tourist attraction, educational premises, school, play area, nursery, children’s centre or similar premises.*
- 1.3 Those parts of Schedule 3 of the 1982 Act relating to sex shops and sex cinemas have previously been adopted by resolution of the Council on 27 October 1982 and continue to have effect.
- 1.4 On 21 September 2011 the Licensing Committee further considered its preferred approach in the formulation of its draft sex establishment licence policy and determined that the then Head of Legal, Licensing & Registrars be authorised to draft a policy for consideration and approval by the Licensing Committee, prior to public consultation, which was formulated upon the basis of identification of pre-determined localities and the imposition of numerical controls (Licensing Committee Minute No. 10/11 refers).

- 1.5 In preparing this policy, PCC recognised the important role that the regulatory agencies, licensed trade and local communities undertake and considers that their contribution of views was necessary in the formulation of this policy. Therefore, prior to final approval and publication of the policy, PCC consulted widely on the draft proposals.
- 1.6 Consultation on this policy took place with:
- The Chief Officer of Police for Hampshire Constabulary;
 - Persons/bodies representative of existing operators of sex establishments in the licensing authority area;
 - Persons/bodies representative of those likely to be affected by or have an interest in the Policy which may include but is not limited to:
 - Regulatory bodies such as the Fire and Planning Authorities;
 - Community Safety and Children’s Social Care and Safeguarding;
 - Interested parties such as local residents associations, trade associations and interest groups.
- 1.7 PCC had due regard to the views of those consulted on this policy and those responses were given appropriate weight when the policy was determined.
- 1.8 Consultation took place on this policy between 1st March 2012 and 12th April 2012 and the final policy was approved by the Licensing Committee on 12th October 2012. This policy will be subject to regular review and amendments may be made from time to time based upon any relevant government guidance, changes to legislation or local circumstances.
- 1.9 Comments on this policy should be sent via email, post or fax to the following address:

The Licensing Manager
Licensing Service
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
PO1 2AL

Email: licensing@portsmouthcc.gov.uk
Fax: 023 9283 4811

2.0 Aim of the Policy

- 2.1 The aim of this policy is to provide guidance for prospective applicants, persons who may wish to object to or support an application and members of the Council's Licensing Committee when making a decision in respect of an application.
- 2.2 Whilst each application will be considered on its individual merits, this policy is intended to give prospective applicants an early indication of whether their specific application is likely to be successful and the material facts that will be taken into consideration when determining an application. This document also sets out the expectations of the Licensing Authority on the applicant when receiving an application.
- 2.3 No policy will ever be considered absolute and there may be occasions where the Licensing Committee may depart from policy having regard to the unique characteristics of any one particular application.

3.0 Introduction

- 3.1 In this policy we refer to these categories of uses as “sex establishments” unless we say otherwise.
- 3.2 The role of PCC when undertaking its statutory function as the Licensing Authority is to administer the licensing regime in accordance with the law and will not exercise its duties in accordance with any moral standing and will not take into account any unrelated or non-germane considerations that would call into question the validity or vires of any subsequent decision(s) made. All decisions will be based on the facts of an individual case and having regard to any policy in force. PCC recognises that Parliament has made it a lawful activity to operate a licensed sex establishment and such businesses are a legitimate part of the retail and leisure industries.
- 3.3 This policy document relates to the administration of applications for licences for sex establishments. Sex establishments will fall into one of the following categories:
- Sex shops
 - Sex cinemas
 - Sexual entertainment venues

4.0 Background Information

- 4.1 The City of Portsmouth is situated in the ceremonial County of Hampshire which contains 11 District Councils in total. It is at the heart of Britain's southern coastline, with long established direct rail and road links to London, the Midlands and Wales and close to three international airports.

Portsmouth is undergoing rapid change, growing in confidence and developing a renewed sense of itself. As the UK's only island city, this waterfront city combines centuries of maritime history with an attractive contemporary lifestyle.

A significant naval port for centuries, it is home to the world's oldest dry dock, which is still in use today, and to world-famous historic ships, including Admiral Lord Nelson's flagship, HMS Victory, HMS Warrior 1860 and King Henry VIII's Mary Rose. Now new investment around the harbour has transformed the waterfront and attracts generations of new visitors to the city.

In recent years the city has hosted major international events including the International Fleet Review and in 2005 the events to mark 200 years after the Battle of Trafalgar. Portsmouth is also fast becoming the home of ocean racing, hosting the Global Challenge yacht race in 2004/5 and in 2006 the city is the only UK port chosen to host the Volvo Ocean Race.

The Spinnaker Tower at Gunwharf Quays opened in 2005 and is a new icon for the city and the south coast. At 170 metres high, it has already changed the skyline forever and provides an unparalleled view of Portsmouth and the surrounding area from its three observation decks.

This dynamic waterfront city still has an important role as a major dockyard and home base for the Royal Navy. BAE Systems has brought shipbuilding back to the city and in 2006 HMS Clyde was the first ship launched here for 40 years. The council-owned commercial port also continues to thrive and serves more destinations on the continent with freight and passenger traffic than any other UK port.

Portsmouth has a population of 200,000 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country outside London.

Portsmouth offers a vibrant mix of entertainment facilities for residents and visitors alike. This ranges from theatres, restaurants, cinemas and concert venues to club premises, bars, nightclubs and pubs in various locations around the city. The provision of such facilities contributes much to the growth of the local economy for Portsmouth and offers an important role for employment within the city.

- 4.2 At the time of drafting this policy, one licensed sex shop is operating in the City but for many years there were two sex shops operating in different parts of the City.

5.0 Definitions

- 5.1 For the purposes of this policy, the following definitions will apply, provided that any subsequent amendments to the 1982 Act will also be taken into account:

5.2 Sex Shop¹

Any premises, vessel, vehicle or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- a) Sex articles; or

¹ Paras 4(1) & (2), Schedule 3 of the 1982 Act

- b) 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.

5.3 **Sex Article²**

Anything made for use in connection with, or for the purpose of stimulating or encouraging:

- i. Sexual activity; or
- ii. Acts of force or restraint which are associated with sexual activity; and anything to which the sub-paragraph below applies.

This sub-paragraph applies:

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

5.4 **Sex Cinema³**

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:

- a) Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –
 - i. Sexual activity; or
 - ii. Acts of force or restraint which are associated with sexual activity; or
- b) Are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

But does not include a dwelling-house to which the public is not admitted.

² Paras 4(3) & (4), Schedule 3 of the 1982 Act

³ Paras 3(1) & (2), Schedule 3 of the 1982 Act

No premises shall be treated as a sex cinema by reason only –

- a) If they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation.
- b) By their use for an exhibition to which section 6 of the Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the former Cinemas Act 1985.

5.5 Sexual Entertainment Venue⁴

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

Relevant entertainment is defined as:

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

In terms of considering what constitutes “relevant entertainment” each case shall be judged on its merits but the informal guidance produced by the Home Office suggests that the definition of relevant entertainment would apply to the following forms of entertainment as they are most commonly understood:

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

However, the above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should merely be used as an indicator for certain types of entertainment as 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.

5.6 The following are **not** sexual entertainment venues for the purposes of this policy:

- Sex cinemas and sex shops;
- Premises which provide entertainment on an infrequent basis. These are defined as premises where:-
 - a) No relevant entertainment has been provided on more than 11 occasions within a 12 month period;

⁴ Paras 2A(1) &(2), Schedule 3 of the 1982 Act as amended by section 27 of the 2009 Act

- b) No such occasion has begun within a period of one month beginning with the end of the previous occasions; and
 - c) No such occasion has lasted longer than 24 hours.
- Other premises or types of performances or displays exempted by an order of the Secretary of State;
 - Private dwellings with no public admittance.

6.0 Mandatory Grounds for Refusal of an Application⁵

6.1 The 1982 Act sets out 5 mandatory grounds for refusing a sex establishment licence which are set out below:

That the applicant:

- a) Is under the age of 18;
- b) Is for the time being disqualified from holding a sex establishment licence;
- c) Is not a body corporate, and is not resident or has not been resident in an EEA state for six months preceding the date of the application;
- d) Is a body corporate which is not incorporated in an EEA state;
- e) Has, in the period of 12 months preceding the date of the application, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

7.0 Discretionary Grounds for Refusal of an Application⁶

7.1 The 1982 Act also sets out 4 discretionary grounds for refusing a sex establishment licence. The grounds are set out below and further expanded upon within this section of the policy:

- a) The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- b) If the licence were to be granted, 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 of such a licence if he made the application himself;
- c) The number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;

⁵ Para 12(1), Schedule 3 of the 1982 Act

⁶ Para 12(3), Schedule 3 of the 1982 Act

d) The grant would be inappropriate, having regard –

- i. To the character of the relevant locality;
- ii. To the use to which any premises in the vicinity are put;
- iii. To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

7.2 a) Unsuitability of applicant

When considering the suitability or otherwise of an applicant, the Licensing Authority will have due regard to not only whether or not an applicant has been convicted of an offence but any other grounds which would call into question his/her suitability.

7.3 The Licensing Authority will wish to be satisfied that:

- The applicant is sufficiently trustworthy to run the sex establishment in accordance with the terms and conditions imposed on any licence granted, as well as the law;
- The welfare of the performers at the licensed premises will be protected;
- That the safety of the public attending the premises will be provided for; and
- The needs and rights of persons/businesses living or working in the area, and indeed the area itself, are recognised and respected.

7.4 In those cases where an applicant has been convicted of an offence, the Licensing Authority will consider, on individual merit, the nature and seriousness of the offence and the time which has elapsed since the date of conviction.

7.5 Applicants should be aware that certain offences will give rise to particular concerns and in particular will include:

- Sexual offences;
- Offences involving prostitution, drugs, dishonesty or violence; and
- Licensing offences.

7.6 In considering the overall suitability of an applicant to hold a licence, the following factors will be taken into account by the Licensing Authority:

- Honesty and integrity of the applicant;
- Relevant experience of running similar sex establishments;
- Understanding of the terms and conditions relating to sex establishments;
- Reliability to run the premises in accordance with the licence;
- Track record of compliance in relation to other premises and/or licensing regimes;
- Intention to manage the premises himself or to employ others in that role;
- Existence or otherwise of a management structure to demonstrate compliance with operating conditions incorporating such matters as:

- ✓ Managerial competence
- ✓ Presence

- ✓ Credible management structure, which will include employment of individuals who have sufficient experience in running such premises
- ✓ Internal enforcement of rules (including training, monitoring, publication of rates for performers and customers)
- ✓ Viable business plan
- ✓ Demonstrate ability to act in the best interests of performers
- ✓ Preparation and enforcement of a written welfare policy for performers
- ✓ Procedures in place to ensure performers are adults and entitled to live and work in UK
- ✓ Demonstrate measures to protect the public (such as transparent rate of charges and prevention of solicitation)

In all cases, the Licensing Authority will give serious consideration to the observations of the Chief Officer of Police in relation to concerns expressed about the suitability of an individual applicant, body corporate or an individual officer of a company.

7.7 b) Unsuitable manager of the business or other beneficiary

The Licensing Authority will need to be satisfied that the proposed premises and activities are not a device to facilitate illegal activity and that those persons in ultimate control of the sex establishment can demonstrate that they will operate the premises in such a manner so as to promote the objectives of the legislation.

7.8 c) Number of sex establishments

PCC recognises that the Act allows discretion by the Licensing Authority to impose a numerical control on the number of sex establishments in a particular locality (including the provision that nil may be an appropriate number) and that this control can apply to both the overall number of sex establishments and also the number of each kind.

7.9 In formulating this policy in relation to the number of sex establishments, the Licensing Authority has taken the following factors into account:

- Portsmouth's Local Strategic Partnership vision for the city where, in particular, we want to:
 - Develop Portsmouth as a city of innovation and enterprise, with a strong economy and employment opportunities for all;
 - Make Portsmouth a city where everyone feels and is safe;
 - Make Portsmouth an attractive and sustainable city;
 - Deliver affordable, quality housing where people want to live;
 - Encourage and enable healthy choices for all and provide appropriate access to health care and support;
 - Enhance Portsmouth's reputation as a city of culture, energy and passion, offering access for all to arts, sports and leisure;

- Celebrate the many diverse and different communities within Portsmouth and work together to create an inclusive city for everyone;
 - Protect and support our more vulnerable residents by shaping public services to meet their needs.
- Location and residential density of housing in Portsmouth as shown on Map SELP1 (Page 19);
 - Location of facilities for children including schools, playgroups and children's centres throughout the city as shown on Map SELP2 (Page 20);
 - Location of places of worship throughout the city as shown on Map SELP3 (Page 21);
 - Location of premises attracting vulnerable people such as GP surgeries, health centres, hospitals, dentists as shown on Map SELP4 (Page 22);
 - Areas and premises attracting families such as leisure and sport facilities, play spaces, parks and open spaces including tourist attractions as shown on Map SELP5 (Page 23);
 - Location of areas associated with commerce, retail and commercial use as shown on Map SELP6 (Page 24);
 - Promotion of gender equality, particularly in relation to reducing the fear of crime among women and community attitudes to sex establishments;
 - The Portsmouth Regeneration Strategy;
 - Community Safety Strategy;
 - The Portsmouth Plan (Portsmouth's Core Strategy);
 - Southsea Seafront Strategy.

7.10 Given the various factors set out above, the Licensing Authority has reached the preliminary conclusion that there is no place within the City of Portsmouth of which it could be said that it was situated in a locality in which it would be appropriate to licence a sex establishment.

7.10a Notwithstanding the provisions of paragraph 7.10 above (relating to the numerical control on the number of sex establishments in a particular locality), the presumption to refuse shall not apply to:

- The renewal, transfer or variation of an existing sex establishment licence; or
- The grant of a new sex establishment licence, whereby an application was made during the transitional period 1 November 2011 until 31 October 2012 to those premises that can demonstrate to the satisfaction of the Licensing Authority that

during the 12 months prior to the commencement of the transitional period they have been regularly providing sexual entertainment that previously was only regulated under the Licensing Act 2003.

7.11 d) Character of the relevant locality

Applicants should be aware that the Licensing Authority may refuse a licence on this ground regardless of what may or may not be an appropriate number of sex establishment licences within the locality.

In considering whether it is appropriate to grant a licence having regard to the character of the relevant locality, the Licensing Authority will take account of the following factors, together with such other factors as may be considered relevant in the individual circumstances of the case:

- The general character of the area (e.g. family residential, family leisure or educational area);
- The impact of the premises on the character of the area;
- The current use for night-time leisure activities including existing sufficient representation of sex-orientated uses;
- Gender equality issues, including whether the proposed use, particularly at night, would deter women from using the area comfortably or at all);
- Raising the fear of crime in the locality should further sex-orientated uses be authorised;
- Effects upon regeneration and tourism in the area;
- Level of genuine demand (including the risk that excess supply would drive down standards and lead to problems associated with compliance with conditions.

7.12 e) Use of premises in the vicinity

Applications for sex establishment licences may be refused where the Licensing Authority considers that the grant of a licence would be inappropriate having regard to the use of other premises in the vicinity. Whilst the term “vicinity” is not defined in the 1982 Act, the Licensing Authority considers that “vicinity” will be a smaller area than “locality” as referred to in paragraph 7.8 above.

7.13 Applicants should be aware that the Licensing Authority may refuse a licence on this ground regardless of the character of a locality or indeed what may or may not be an appropriate number of sex establishment licences within it.

7.14 When considering the type of uses which may be deemed to be inappropriate, due regard will be given to the suitability of the proposed location of the premises and will take into account relevant factors including, but not limited to, the presence of what may be regarded as sensitive issues (e.g. dwellings, places of worship, schools, youth clubs, community centres, women’s refuges, libraries, parks or swimming pools)

7.15 Without prejudice to the above, applicants should also be aware that applications for sex establishment licences will normally be refused if they are proposed to be located in the vicinity of:

- Places of worship;
- Swimming pools;
- Leisure centres;
- Parks;
- Youth centres;
- Historic buildings;
- Tourist attractions;
- Educational premises;
- Schools;
- Play areas;
- Nurseries;
- Children's centres;

Or any other similar premises.

7.16 Applicants are advised to consider the impact of their proposed application prior to considering whether or not they wish to operate a sex establishment business in an area and state in their application how they believe any potential impacts could be mitigated. The Licensing Authority reserves the right to take into account other issues or considerations that may arise at the application and consultation stage as well as during the licence period.

7.17 **Layout, character or condition**

When considering the issue of a licence in terms of its layout, character or condition, the Licensing Authority will give consideration to general factors such as:

- Provision of proper access for disabled people;
- Safe in terms of its structure and overall standards of maintenance for the building;
- Sufficient provision for surveillance and overall supervision;
- Standard of fit out of the premises;

While the Licensing Authority will not refuse a licence merely because the premises do not have planning permission for use as a sex establishment, the authority will take into account the absence of planning permission to the extent relevant to the statutory grounds for renewal.

8.0 **Application Process**

8.1 Application forms are available from the Licensing Service and are also available for download on the Council's website at:

<http://www.portsmouth.gov.uk/living/11752.html>

8.2 Upon receipt of an application for the grant, renewal, transfer or variation of a licence, the Licensing Authority will consult with the following bodies/individuals and will have regard to any observations received as a result:

- Hampshire Constabulary
- Hampshire Fire and Rescue Service
- Head of Children's Social Care and Safeguarding
- Head of Planning Services
- Ward Councillors

8.3 An application for the grant, renewal, transfer or variation of a licence must be formally advertised in two specific ways:

- a) Within 7 days after the date of application, the applicant must arrange for a public notice to be published in a local newspaper (The News – www.portsmouth.co.uk)
- b) Where the application is in respect of premises, the applicant must also display a notice of the application on or near the premises in question. The notice must be placed in such a position so that it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of the application.

8.4 The notice must include information relating to:

- Details of the premises to which the application relates;
- Details of the applicant;
- Type of sex establishment licence being applied for;
- Whether the application is for the grant, renewal, transfer or variation of a licence;
- Details of how persons may object; and
- Closing date for representations.

Templates for public notices are available from the Licensing Service or are available to download from PCC's website at <http://www.portsmouth.gov.uk/living/11752.html>.

8.5 The applicant must also send a copy of the application to the Chief Officer of Police no later than 7 days after the date of application, unless the application is submitted electronically and in which case the Licensing Authority will serve notice on the Police.

8.6 The address details for the Police are as follows:

The Chief Officer of Police
Hampshire Constabulary
Portsmouth Licensing and Violent Reduction Unit
Community Safety Unit
Civic Offices
Guildhall Square
Portsmouth
PO1 2BY

Tel: 0845 045 4545
Direct Dial: 023 9268 8754
Fax: 023 9268 8513
Email: portsmouth.licensing@hampshire.pnn.police.uk

9.0 Consideration of an Application

- 9.1 The Licensing Authority will have regard to all information provided by an applicant in support of an application.
- 9.2 Any person wishing to object to an application must give notice of their objection in writing, stating the general terms of the objection no later than 28 days after the date of the application. Any person may object to an application. However objections must be relevant to the grounds set out in paragraph 12, Schedule 3 of the 1982 Act. Those grounds are set out in sections 6 and 7 of this policy. Objections based solely on moral grounds/values will not be considered.
- 9.3 The Licensing Authority will notify the applicant, in writing, of the general terms of any objection received within the 28 day period allowed for objections.
- 9.4 The 1982 Act protects the rights of objectors to remain anonymous. The Licensing Authority will not reveal names or addresses of any objector to the applicant without their consent. However, general information such as the objector lives within a certain distance of the premises in question will be released in order to give the applicant an opportunity to rebut any concerns so far as geographical vicinity or locality is concerned.

10.0 Determining an Application

- 10.1 All applications where objections have been received or where consultees have raised concerns will be referred to the Licensing Sub-Committee for determination at a hearing and all parties will be given the opportunity to put forward their case at the hearing.
- 10.2 The Licensing Authority will consider each application on its individual merits. Reasons for grant or refusal may vary depending upon whether the application relates to a sex shop, sex cinema or sexual entertainment venue.
- 10.3 The Licensing Sub-Committee will retire at the end of the hearing to make its decision on the facts of the case in private.
- 10.4 In most cases the Licensing Sub-Committee will deliver its decision and reasons at the end of the hearing. However, where it is considered proportionate and necessary to do so, the Licensing Sub-Committee may delay making a decision so as to allow for consideration of the respective cases put before it and so as to permit further time for a reasoned decision to be formulated. Any decision and reasons will be communicated, in writing, to the applicant and all other parties within 10 working days of the hearing.

11.0 Hearings

- 11.1 Hearings will be arranged as soon as reasonably practicable following the end of the consultation period. Applicants and other interested parties will be given at least 10 days notice of the proposed date for hearing and more where possible to do so.

- 11.2 All applicants will be given the opportunity to appear before and be heard by the Licensing Sub-Committee responsible for determining the application. Applicants will be entitled to be represented by a legal advisor or similar agent. Witnesses may be called with permission from the Chair of the Sub-Committee.
- 11.3 Persons objecting to applications will also be given the opportunity to appear at the hearing to discuss their objections.
- 11.4 The hearing will take place in public except where the public interest requires otherwise, although members of the public being disruptive will be required to leave the meeting.
- 11.5 All parties will be allowed an equal maximum period of time for the presentation of their case but it is expected that all parties keep points pertinent and the discussion moving in the interests of cost and efficiency.

12.0 Appeals

- 12.1 A right of appeal exists for applicants in respect of the refusal of applications for the grant, renewal, transfer or variation of a sex establishment licence. A right of appeal is also available in relation to the imposition of conditions and revocation of licences.
- 12.2 However, appeals against mandatory refusals (see section 6 of this policy document) can only be lodged on the basis that the mandatory ground does not apply to the appellant.
- 12.3 Additionally, no appeal provisions exist in respect of refusals to grant or renew licences on the discretionary grounds of:
- The number of sex establishments in the relevant locality;
 - The character of the relevant locality;
 - The use to which any premises in the vicinity are put;
 - The layout, character or condition of the premises.
- 12.4 The time limit for lodging an appeal to the Magistrates' Court is 21 days beginning with the date of notification of the decision. The commencement time for the purposes of this section will be from when the applicant receives formal written notification of the decision and reasons.
- 12.5 The 1982 Act also provides for further appeal to the Crown Court.

13.0 Duration of Licences

- 13.1 Licences for sex establishments may be granted for a maximum period of one year but the Licensing Authority may grant a shorter period of time if it thinks fit.

14.0 Licence Conditions

14.1 The Licensing Authority will impose standard conditions that are relevant to all licensed sex establishments. These may include, but are not limited to:

- Opening and closing hours
- Displays and advertisements on or in sex establishments
- Visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another.

The Licensing Authority has made Regulations as to standard conditions which are set out at Appendix A to this policy. Such conditions will be imposed unless they are varied in an individual case. Any applicant for such variation must set out the variation requested in the application, together with reasons why the variation is sought and how it intends to achieve the objectives of the standard conditions if a variation is permitted.

14.2 The Licensing Authority may also specify other conditions specific to individual premises dependant on the type of activity undertaken and the type of premises. These may include, but are not limited to:

- Specifying minimum distances between the audience and performers
- Control of access to changing room facilities
- Control of private viewings

Additional conditions may be imposed where appropriate and necessary.

15.0 Waiving of the need for a Sex Establishment Licence⁷

15.1 In certain circumstances the Licensing Authority may waive the need for a sex establishment licence. However, applicants should be aware that it is considered that the waiver system is not a substitute for the licensing regime but may be useful in certain borderline cases or where events are minor or temporary. Equally it may be an appropriate alternative solution where clarity or regularisation is considered necessary.

15.2 An application for a waiver can either be made as part of an application for a licence or on a separate basis. The Licensing Authority may grant a waiver if it considers that to require a licence would be unreasonable or inappropriate.

15.3 In those cases where a waiver is granted the Licensing Authority will confirm, in writing, to the applicant that such a waiver has been approved. The waiver can last for any such period that the Licensing Authority think fit but equally it can be terminated by the Authority at any time subject to a notice period of 28 days.

15.4 The Licensing Authority will consider such applications on an individual basis. However, the Licensing Authority considers that in normal cases, licences should be sought for licensable activities and waivers will be granted only in exceptional cases.

⁷ Para 7, Schedule 3 of the 1982 Act.

16.0 Exchange of Information

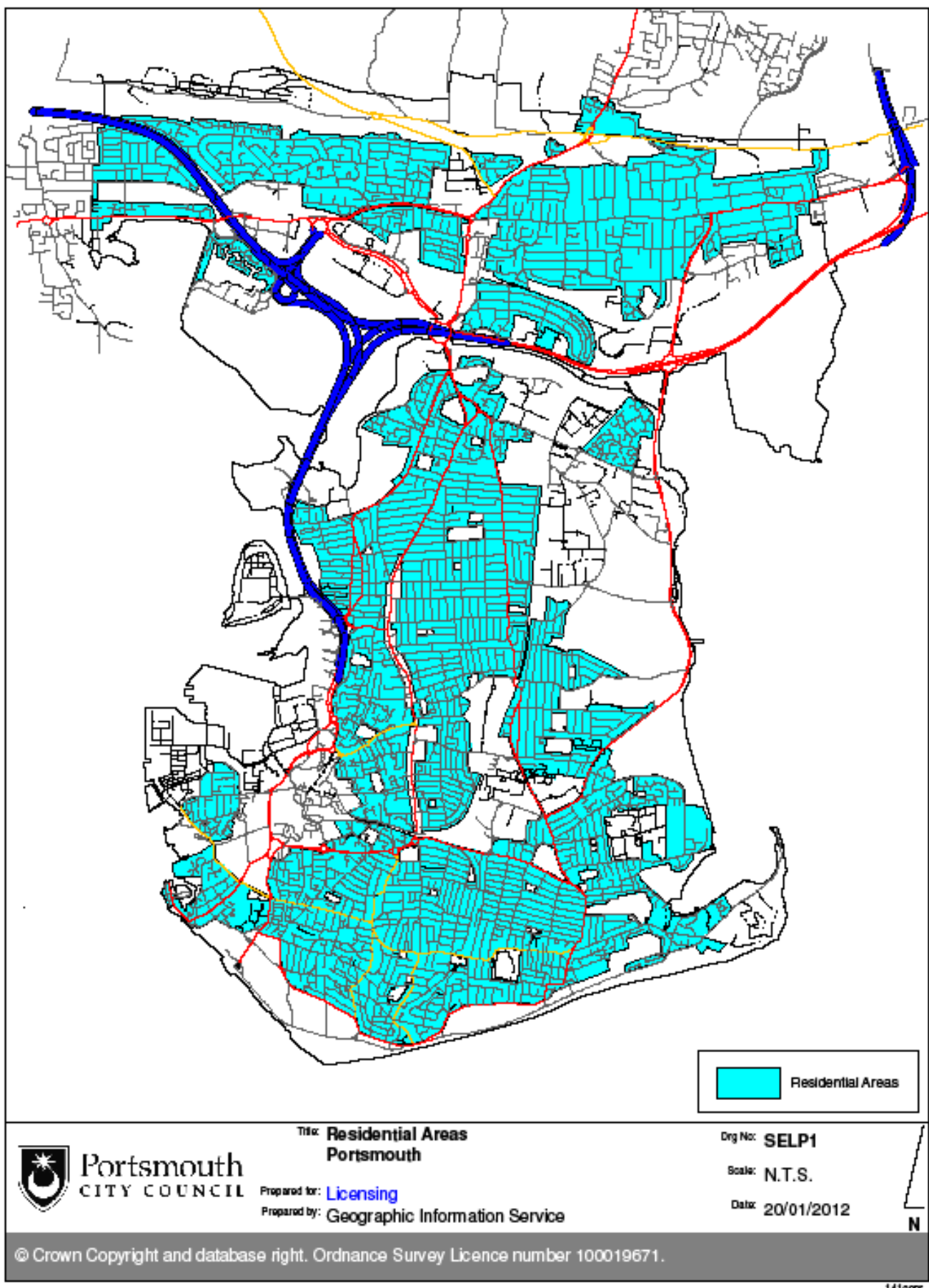
- 16.1 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. Personal details will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold about you. The Council may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 16.2 The Authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1988 to exchange data and information with the Police and other partners to fulfill its statutory objective of reducing crime in the area.

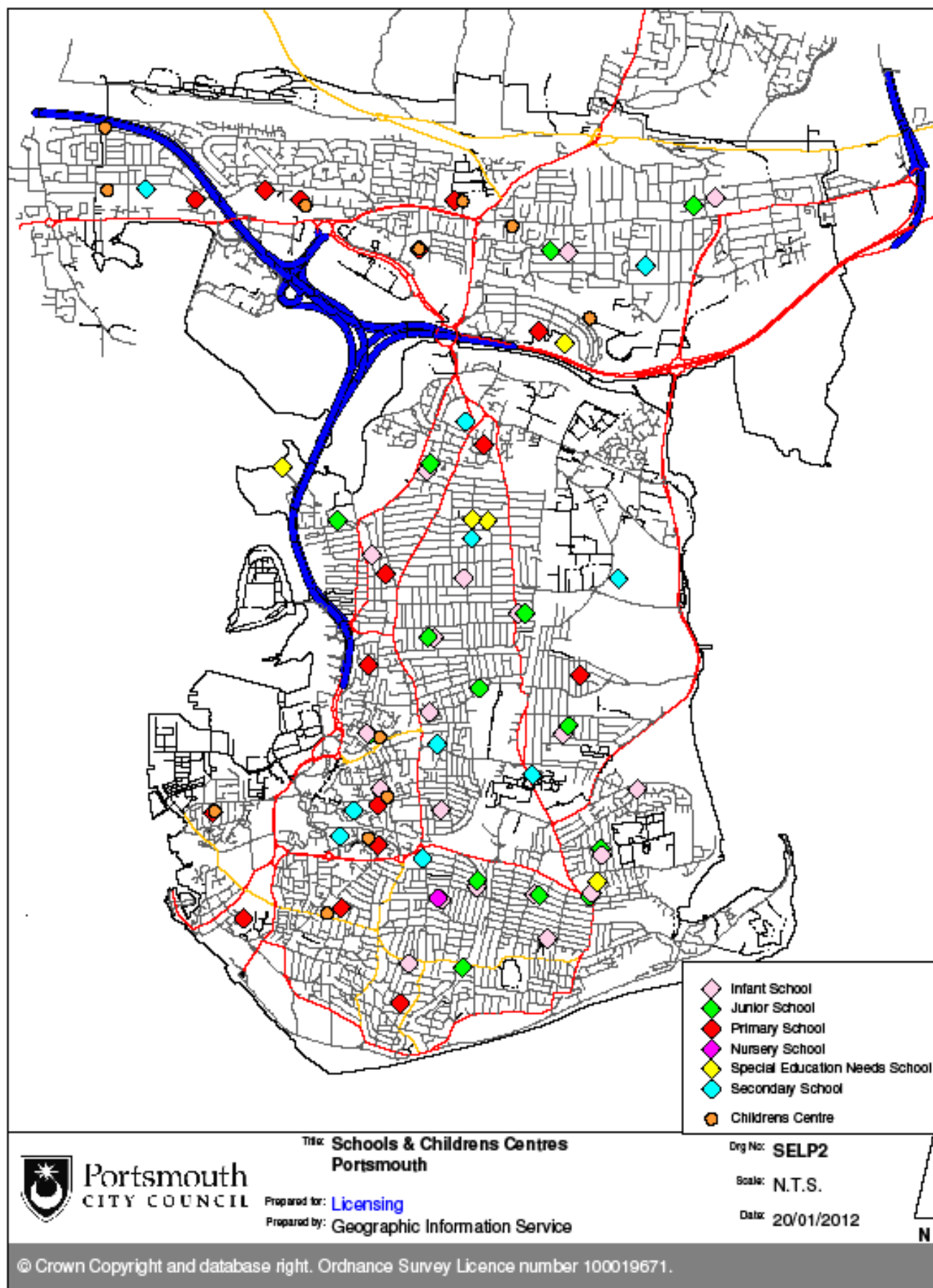
17.0 Enforcement

- 17.1 There are serious penalties for breaching the law relating to the control and supervision of sex establishment premises. Historically, PCC has taken robust action to prosecute individuals and businesses operating outside of the law and will maintain this stance in order to ensure protection of the public and to enforce this policy.

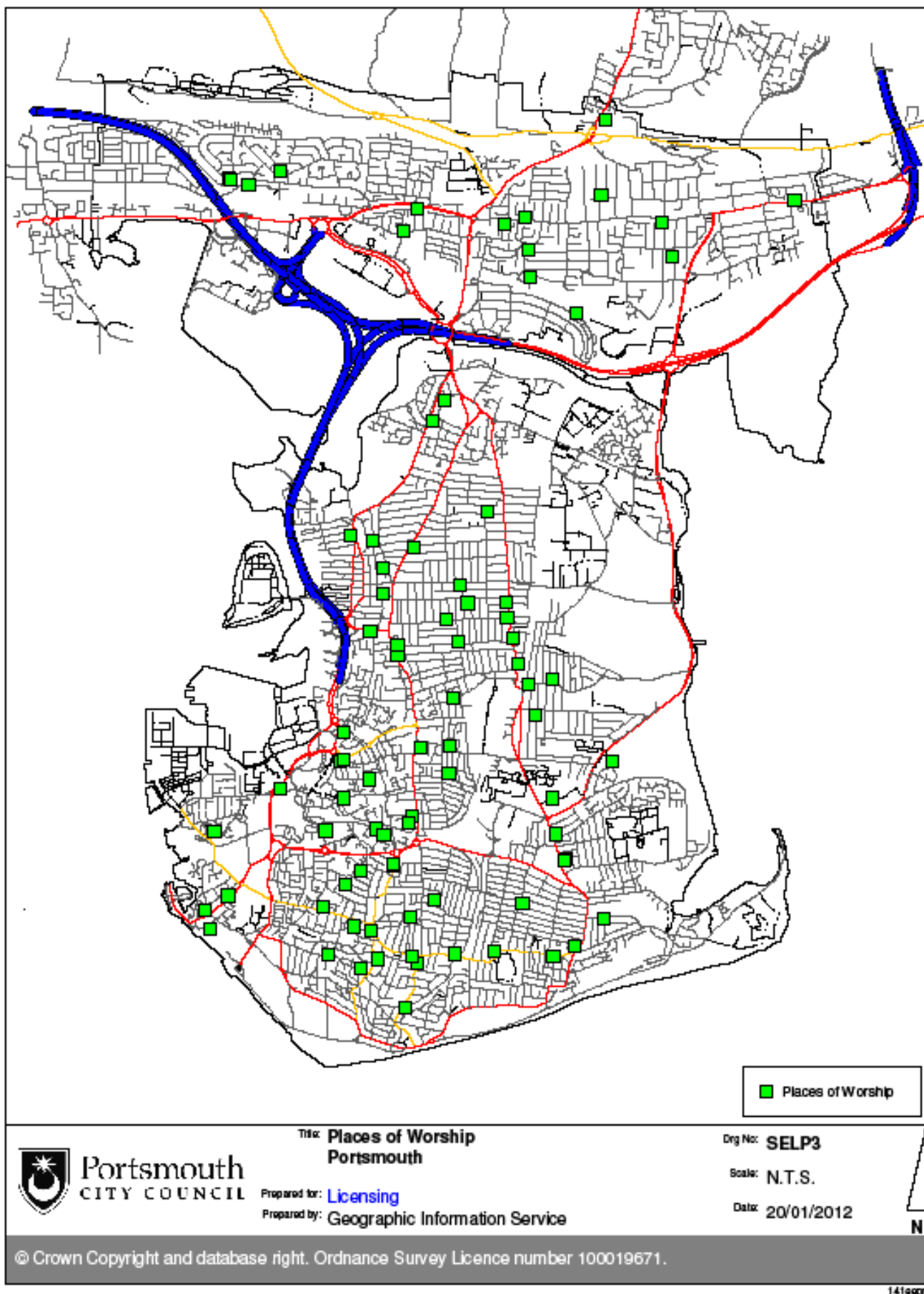
As a consequence, the Licensing Authority will establish protocols with other statutory agencies on enforcement issues. This is to enable the more effective deployment of staff who are commonly engaged in enforcing licensing law and the inspection of licensed premises. The aims of the protocol are to target agreed problem and high risk premises which require greater attention while providing a lighter touch in respect of low risk premises which are well run.

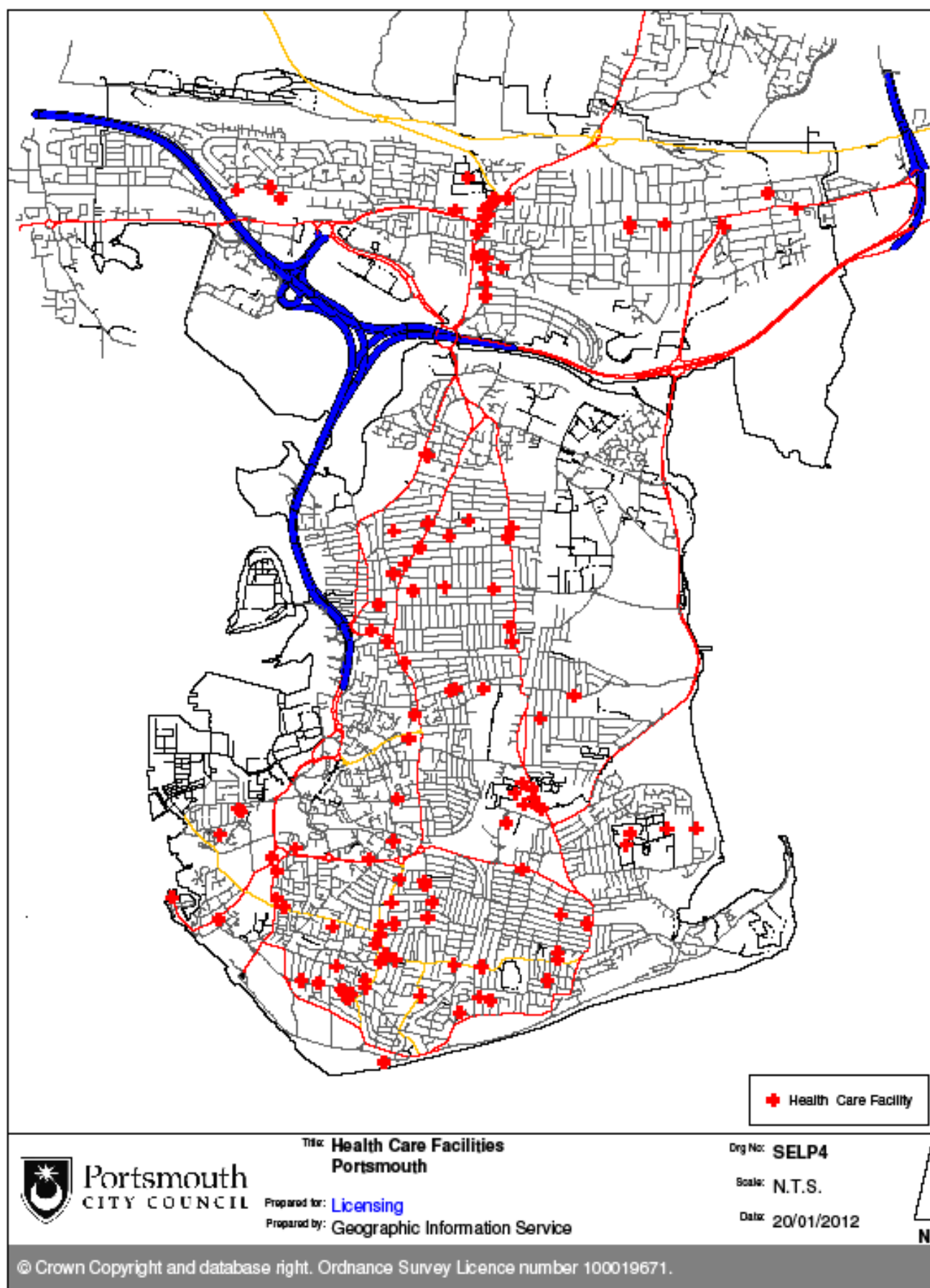
MAP SELP1



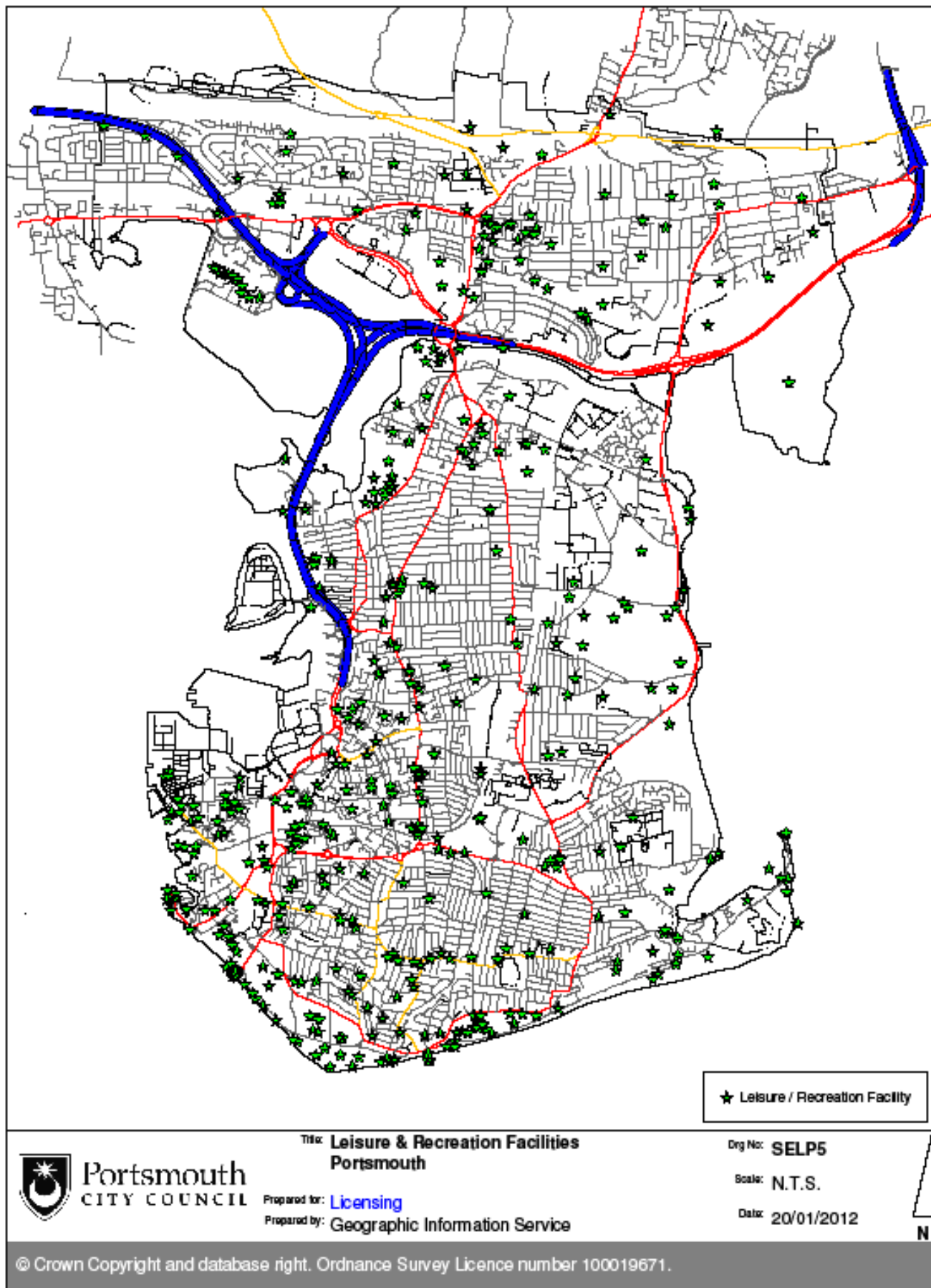


MAP SELP3

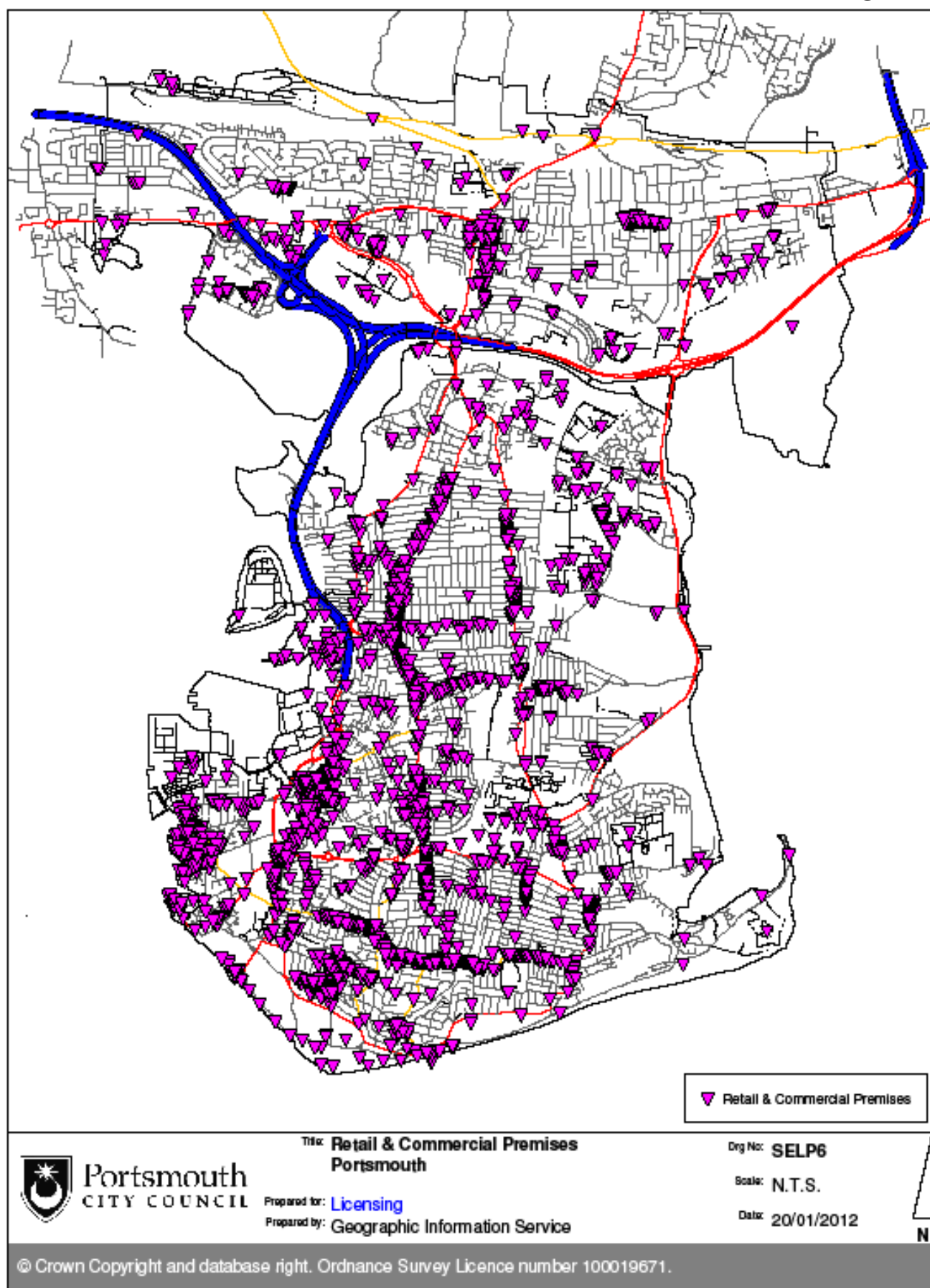




MAP SELP5



MAP SELP6



Standard Conditions applicable to Sex Establishments consisting of Sex Shops, Sex Cinemas or Sexual Entertainment Venues

Portsmouth City Council, in exercise of the powers conferred by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 hereby make the following Regulations⁸ prescribing standard conditions applicable to licences for sex establishments.

Interpretation

In these Regulations the following expressions that is to say “Sex Establishment”, “Sex Shop”, “Sex Cinema”, “Sexual Entertainment Venue”, “Sex Article”, and “Vessel” shall have the meanings respectively assigned by Schedule 3 of the Act (and where amended by Section 27 of the Policing and Crime Act 2009).

In these Regulations the following expressions shall have the meanings hereby respectively assigned to them namely:

- | | |
|--------------------------|--|
| “the Act” | means the Local Government (Miscellaneous Provisions) Act 1982, as amended. |
| “the council” | means Portsmouth City Council and/or any authorised officer acting on behalf of the Council. |
| “the premises” | means any premises, vehicle, vessel or stall licensed under the Act. |
| “licence holder” | means a person who is the holder of a sex establishment licence. |
| “permitted hours” | means the hours during which the licensed premises are permitted to be open to the public. |
| “licence” | means a licence granted pursuant to Schedule 3 of the Act. |

⁸ Adopted by Portsmouth City Council, as Licensing Authority, following a resolution of the Licensing Committee on 23 October 2013.

Part One – General Conditions

Management Of Premises

1. The Licence holder, or some responsible person 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.
2. In accordance with section 14 of the 1982 Act, the Licence holder shall display, on the licensed premises in a conspicuous position, a copy of the licence and/or any special conditions attached.
3. The name of the person responsible for the management of the sex establishment, whether the licence holder or 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.
4. The licence holder shall retain control over all parts of the licensed premises as set out on the approved premises plan and shall not let or part with possession of any part.
5. No person under the age of 18 shall be admitted to the premises and rigorous identity checks **SHALL** be made on any person who appears to be under the age of 18.
 - a) To ensure compliance of 5 above, the licence holder shall exhibit appropriate warning notices as to the minimum age requirements on both the exterior (frontage) door and also conspicuously on the appropriate inner lobby door.
6. No person under the age of 18 shall be employed to work at the premises in any capacity or shall be allowed to work at the premises on a self-employed basis.
7. Where the Licence holder is a body corporate or an unincorporated body, any change of director, or other person responsible for the management of the body is to be notified in writing to the council within 14 days of any such change. In addition, the Licence holder shall provide any details as the council may require in respect of any new director, officer or manager upon request in writing from the council.

Conduct of the Premises

8. No change from one type of sex establishment to another shall be made without the written consent of the council.
9. No part of the premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.

Premises Interior and Layout

10. The premises layout shall comply with deposited plans unless otherwise approved in writing by the council.

11. No alterations, additions or modifications to either the internal or external parts of the licensed premises shall be made without the prior written consent of the council.
12. 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.
13. The premises shall be fitted with an inner entrance lobby door or partition 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.
14. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
15. No part of the interior of the licensed premises shall be visible whatsoever to persons outside the premises.
16. No external advertising, words, signs, displays or illuminations shall be permitted unless previously approved by the council.
17. The external fabric, appearance and look of the licensed premises shall consist of materials and colours approved by the council in order to:
 - (a) Ensure that the frontage is of a discreet nature
 - (b) Ensure that it is appropriate to the character of the locality.

CCTV

18. A recording CCTV system shall be installed and fully operational whilst the venue is open to the public.
19. The recording equipment will be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and to maintain the integrity of the system.
20. A record will be kept of any access made to information held on the system.
21. The system will be serviced at twelve monthly intervals and maintained to a standard that is acceptable to the police licensing department responsible for the area. A record of service and maintenance completed shall be held for a minimum of three years at the premises.
22. The system clock will be checked regularly for accuracy taking account of GMT and BST.
23. An additional recording CCTV camera shall be installed and fully operational whilst the venue is open to the public to cover the area outside the front of the premises.
24. The CCTV system will have sufficient storage capacity for 31 days of good evidential quality images.

CCTV Access

25. Police and authorised officers of the council shall have access to data from the systems quickly and easily and therefore provision will be made for the licensee or a member of staff to have access to the secure area and also be able to operate the equipment and to supply footage in a format which can be easily viewed by police or council officers.
26. All operators will receive training from the installer when equipment is installed and this training will be cascaded down to new members of staff.
27. An operator's manual will be available to assist in replaying and exporting data.
28. The premises shall not be operated pursuant to the grant of a licence until such time as the CCTV System has been approved by the Police. The CCTV must be maintained in a satisfactory working condition and subject to police approval in order to remain operating under the licence.

General

29. The Licence holder shall take all reasonable precautions to ensure public safety on the premises and shall comply with any reasonable request made by the council.
30. The council may substitute, delete, vary or amend these conditions at any time.

Part Two – Additional Conditions for Premises Operating as Sex Shops

31. The Licensee shall notify the council of the name, address and date of birth of any manager or employee at the licensed premises at least 7 days prior to commencing employment. The council, in consultation with the police, reserves the right to object to the employment of any person by reason of general unsuitability and/or because of any recorded conviction, reprimand, warning or caution considered relevant in which event the individual concerned shall not be employed at the premises.
32. The names of any and every employee working on the premises shall be displayed in a conspicuous position on the premises.
33. No public music or dancing shall be permitted on the premises.
 - a) No alcohol shall be sold, offered or consumed by either staff or customers on the premises.
 - b) No facilities to provide or consume food (hot or cold) by members of the public shall be permitted on the premises.

Hours of Opening and Closing

34. Licensed premises shall not, unless approved in writing by the council, be open for the purposes for which the licence is granted on any Sunday, bank or public holiday.

35. The general permitted hours (unless otherwise varied by the council) for the use of any premises, as a sex shop shall be:

Monday to Saturday inclusive - 0930 until 2000

Conduct of the Premises

36. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
37. All sex articles and other things displayed for sale, hire, exchange or loan within a sex establishment shall be clearly marked to show the price being charged.
38. All printed matter offered for sale, hire, exchange or loan within a sex establishment shall be available for inspection prior to purchase and a notice to this effect shall be displayed in a conspicuous position within the premises.
39. No film or video recording shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.

Premises Interior and Layout

40. Any facilities on the premises 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. The positioning of any playback or viewing equipment shall be approved by the council.

Part Three – Additional Conditions for Premises Operating as Sexual Entertainment Venues

External Appearance of the Premises and Public Displays of Information

41. Any external displays or advertising may only be displayed with the prior approval of the Council.
42. The prices for entrance and any compulsory purchases within the venue, shall be clearly displayed on the exterior of the premises.
43. All charges for products and services shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.
44. Rules for customers shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.
45. No charge shall be applied unless the customer has been made aware of the tariff of charge by the performer in advance of the performance.
46. The use of cruising cars by the premises to solicit for custom and/or transport people to or from the premises is prohibited.

Control of Entry to the Premises

47. The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.

OR at the discretion of the Licensing Authority in individual circumstances the following condition may be applied:

48. All persons entering the premises must supply verifiable identification details that are passed through a digital scanning and recording system such as Club Scan, Idvista or similar computerised system.
49. The premises shall maintain a Refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the council.
50. All individuals employed on the premises to conduct a security activity (within the meaning of paragraph 2(1) (a) of Schedule 2 to the Private Security Act 2001) must be licensed by the Security Industry Authority.
51. Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
52. A policy of random searches of persons entering the premises shall be operated.
53. Any person found to be in possession of illegal drugs upon entry shall be prevented entry and, where possible, restrained until the Police can take such person into custody. Any persons found using illegal drugs on the premises shall be removed from the premises or, where possible, restrained until the Police can take such person into custody.
54. The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises shall not be visible to persons outside the building.
55. The premises shall subscribe to an approved radio system and radios shall be operational at all times the premises is open to the public.

Conduct of Performers and Rules relating to performances of sexual entertainment

56. There shall be a written code of conduct for performers that has been agreed in writing by the Licence holder, the council and the Police.
57. All performers shall be required to certify their agreement to comply with the code and a record shall be kept on the premises and be made available upon request by the Police or an authorised officer of the council. The code shall include the basic criteria as set out in Appendix B to this policy.
58. No changes shall be made to the Dancer's Code of Conduct without the prior written consent of the council and the Police.

59. The Dancer's Code of Conduct must include a statement that any dancer who does not comply with the Code of Conduct will face disciplinary proceedings.
60. All management and staff (including security staff) must be aware of and familiar with the content of the Dancer's Code of Conduct and shall ensure it is complied with at all times.
61. A copy of the Dancer's Code of Conduct shall be prominently displayed in each area of the premises where the public have access, which shall include toilet areas as well as in any area used as a changing/dressing room for dancers.

Code of Conduct for Customers

62. There shall be a written Code of Conduct for Customers that has been agreed in writing by the Licence holder, the council and the Police.
63. The code shall include the basic criteria as set out in Appendix C to this policy.
64. The Code of Conduct for Customers shall be displayed in prominent positions throughout the licensed premises so that it is visible to all patrons.
65. No changes shall be made to the Code of Conduct for Customers without the prior written consent of the council and the Police.
66. The Code of Conduct shall include a statement that any customers who fail to comply with the Code of Conduct will be required to leave the premises.
67. All management and staff (including security staff) must be aware of and familiar with the content of the Code of Conduct for Customers and shall ensure it is complied with at all times.
68. On any occasion whereby a customer breaches the Code of Conduct, such details shall be recorded in the incident log.
69. Any customer breaching the rules of the Code of Conduct shall be asked to leave the premises. Any customer who has previously been asked to leave the premises and again breaches the Code of Conduct shall be banned from the premises.

Disciplinary Procedure for Performers

70. The Licence holder shall ensure that a written disciplinary procedure is in force so as to take appropriate action against performers who breach the Code of Conduct and that a copy of the procedure is provided to each performer who works at the premises.
71. All performers shall sign an acknowledgement that they have received a written copy of the disciplinary procedure and have read and understood its contents.
72. Any disciplinary procedure shall NOT make any provision for financial penalties against performers who breach the disciplinary procedure. Any sanctions shall be limited to verbal or written warnings, suspension or revocation of the performer's right to dance at the premises.

The Protection of Performers and the Prevention of Crime on the Premises

73. Performers shall be provided with secure and private changing facilities.
74. All entrances to private areas to which members of the public are not permitted access shall have clear signage stating that access is restricted.
75. Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.
76. The Licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work.
77. Private booths must not be fully enclosed. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.
78. There must be a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place.
79. Any private booths shall be fitted with a panic button or security alarm.

Record Keeping and Management

80. All performers shall be required to provide valid identification prior to first employment at the premises. Acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or national ID card.
81. All performers and staff shall be eligible to work in the UK and proof of eligibility records shall be kept on the premises. Management shall ensure that such records are regularly checked to ensure compliance.
82. Employment records for performers and staff shall be kept for a minimum of 6 months following the cessation of their employment.
83. Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council. All fees and charges for performers shall be stated in writing and prominently displayed within the changing area.
84. No films may be shown at the premises unless they have been passed by the British Board of Film Classification. No films classified as R18 shall be shown on the premises.

Dress Code

85. The premises shall operate a dress code for customers to the satisfaction of the Police.

Part Four – Additional Conditions for Premises Operating as Sex Cinemas

Film Exhibition

86. No film shall be exhibited unless:
- a) It has been passed by the British Board of Film Classification (“BBFC”) as a U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the council; or
 - b) The film has been passed by the council as U, PG, 12, 15, 18 or RESTRICTED (18).
87. If the Licence holder is notified by the council, in writing, that it objects to the exhibition of a film specifying the grounds of objection, such film shall not be exhibited.
88. The Licence holder shall give at least 28 days notice in writing to the council of any proposal to exhibit any film which has not been classified as specified above. Such a film shall only be exhibited if consent has been obtained from the council in writing and subject to any terms or restrictions contained within such written consent.
89. When the programme includes a film in the 12, 15 or 18 category, no person appearing to be under the age of 12, 15 or 18 as appropriate shall be admitted to any part of the programme.
90. If the council does not agree with the category of any film as passed by the BBFC, it may alter the category or prohibit the showing of the film.
91. Where any notice is given by the council to the Licence holder that it has altered the category of any film, the film shall thereafter be treated as being in the altered category and the conditions application to the exhibition of films in the altered category shall be observed accordingly.
92. Immediately before each exhibition at the premises of a film (other than a current news-reel) passed by the BBFC, there shall be exhibited on the screen for at least ten seconds and in such a manner as to be easily read by all persons in the auditorium, a reproduction of the certificate of the BBFC or, as regards a trailer, of the statement approved by the BBFC indicating the category of the film.
93. For a film passed by the council, notices shall be conspicuously displayed both inside and outside the premises so patrons entering can easily read them and which consist of the following wording:

PORTSMOUTH CITY COUNCIL

(Insert title of film here)

Has been passed by Portsmouth City Council as
(insert the definition of the category and the category assigned)

94. Where a trailer is to be exhibited advertising a film passed by the council, the notice shall state:

PORTSMOUTH CITY COUNCIL

*(Insert the category of trailer here) **trailer advertising** (insert the category of the film) **film***

95. Every poster, advertisement, photograph, sketch, synopsis or programme relating to a film (other than a current news-reel) exhibited, or to be exhibited at the premises shall indicate clearly the category of the film.

Refusals/Incident Log

96. The Licence holder shall ensure that an incident/refusals log is maintained at the premises. The log shall record the following information:
- Any ejections from the premises
 - Any refused admissions
 - Any refused sales
 - Any inappropriate behaviour by patrons
 - Any failure in the CCTV system
 - Any incidents of crime or disorder
 - Any complaints made by patrons
97. The record shall show the date and time of the incident; the name of the member of staff reporting the incident; a brief description of the customer involved where appropriate and brief details of the incident together with any action taken by the staff/management of the premises.
98. The incident log shall be completed as soon as reasonably practicable after any incident has occurred.
99. The incident log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the location of the incident log and the need to complete it in such cases as described above.
100. The Licence holder shall ensure that the incident log is checked periodically and at least on a monthly basis to ensure that staff are completing the log as and when appropriate.
101. The incident log shall be made available for inspection to the Police or authorised council officers upon request.

General

102. 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.

Sexual Entertainment Venues – Code of Conduct for Dancers

The Dancer's Code of Conduct shall include the following conditions as a minimum standard:

- There shall be no intentional physical contact between performers and customers at any time, before, during or after the performance, with the exception of leading a customer by the hand to, or from, an area permitted for performances of sexual entertainment in advance of, or following, a performance.
- The performer may not simulate any sexual act during a performance.
- Performers must not use any inappropriate, lewd, suggestive or sexually graphic language in any public or performance areas of the premises.
- Performers must not touch the breasts or genitalia of another performer, at any time as part of a performance.
- There shall be no use of sex articles (as defined by paragraph 4(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982) at any time.
- There shall be no nudity by performers in public areas of the premises, unless the Council has agreed in writing that area may be used for performances of sexual entertainment.
- Performers must fully dress (i.e. no nudity) at the end of each performance.
- Performances of sexual entertainment may only take place in designated areas of the premises as agreed in writing by the Council.
- There shall be no photography permitted by customers on the premises.
- Customers must remain seated for the duration of a performance.
- Performers shall not arrange to meet, or have further contact with, customers outside of the premises.
- Dancers shall not perform if under the influence of alcohol or drugs.
- All dancers shall comply with this Code of Conduct. Any failure to adhere to the rules set out in Code shall result in the dancer becoming subject to the consideration of disciplinary action as set out in the Disciplinary Procedure.

Sexual Entertainment Venues – Code of Conduct for Customers

The Customer's Code of Conduct shall include the following conditions as a minimum standard:

- Customers may not touch dancers during a performance.
- Customers may not make lewd or offensive comments to performers.
- Customers must not harass or intimidate performers.
- Customers must not ask dancers to perform any sexual favour.
- Customers may not perform acts of masturbation or indulge in other sexual behaviour.
- Any customer failing to comply with this Code of Conduct will be asked to leave the premises and may face a time-limited or permanent ban from attending the premises.

Telephone: 023 9283 4604

Email: Licensing@portsmouthcc.gov.uk

Address: Licensing Service, Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, Hants, PO1 2AL.

www.portsmouth.gov.uk

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Application for the grant, renewal or transfer of a Sex Establishment Licence pursuant to: Schedule 3, Local Government (Miscellaneous Provisions) Act 1982

PLEASE READ THE FOLLOWING NOTES FIRST

1. All questions must be answered except where otherwise stated. If relevant questions are not answered, the application will be deemed inappropriate and returned to the Applicant.
2. Any person who, in connection with an application for the grant, renewal or transfer of a sex establishment licence makes a false statement which he knows to be false in any material respect or which he does not believe to be true is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.
3. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and in black ink. Use additional sheets if necessary.

Once completed please send your application to: **Licensing Service, Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, PO1 2AL. Telephone: 023 9283 4604 Fax: 023 9283 4811**

Email: Licensing@portsmouthcc.gov.uk

Part 1 – THE APPLICANT

please tick ✓

| | | | |
|--|--|--|--------|
| Q1. Is the applicant: | | | |
| a) An individual | | | |
| b) A company or other corporate body | | | / |
| c) A partnership or other unincorporated body | | | |
| If the applicant is an individual, answer question 2. If the applicant is a company or other corporate body, answer questions 3 and 4. If the applicant is a partnership or other incorporated body, answer question 5. | | | |
| Q2. Answer only where the applicant is an individual: | | | |
| Full name of Applicant: | | | |
| Has the Applicant ever been known by a different name: (If "Yes" please provide the Applicant's former name below) | | | Yes No |
| Former name of Applicant | | | |
| PLEASE GO TO QUESTION 5 | | | |

| Q3. Answer only where the Applicant is a company or other corporate body: | | | |
|---|---|--|------------------------------|
| Name of Applicant: | | Wellhot Limited | |
| Where is the Applicant registered: | | OjsIndustrial Park, Claybank Road, Portsmouth PO3 5SX | |
| Registered number of Applicant: | | 2362993 | |
| Has the applicant previously been known by any other name and if so provide name below: | | | |
| Has the Applicant: | | | |
| | | | <i>please tick ✓</i> |
| Been convicted of a criminal offence? | | Yes | No |
| Been refused the grant or renewal of a sex establishment licence? | | | / |
| Had a sex establishment licence revoked? | | | / |
| Been served with a winding up petition? | | | / |
| If the answer to any of the above questions is Yes, please provide full details on a separate sheet of paper. | | | |
| Names of the Applicant's Directors: | | | |
| Name: | Jaspal singh Ojla Rashwinder Kaur Ojla | Position: | Director Director |
| Are there persons responsible for the management of the Applicant other than the Directors?: | | Yes | No |
| If yes, please provide details of their names | | | |
| Please provide below the names of all persons with a shareholding greater than 10% in the Applicant: | | | |
| Jaspal Ojla Rashwinder Ojla | | | |
| Is the Applicant a wholly owned subsidiary of another company or | | Yes | No |

| | | | |
|--|--|------------|-----------|
| corporate body? | | | |
| If yes, please provide below the name, place of registration and details of its Directors? | | | |
| Name: | | | |
| Place of Registration: | | | |
| Directors: | | | |
| PLEASE GO TO QUESTION 5 | | | |
| Q4. Answer only where the Applicant is a partnership or other unincorporated body: | | | |
| Name of Applicant: | | | |
| Names of Applicant's partners: | | | |
| Are there persons responsible for the management of the Applicant other than the partners? | | Yes | No |
| If yes, please provide details of their names: | | | |
| Has the Applicant ever been refused the grant or renewal of a sex establishment licence: | | Yes | No |
| Has the Applicant ever had a sex establishment licence revoked? | | | |
| If the answer to any of the above questions is Yes, please provide full details on a separate sheet of paper. | | | |
| PLEASE GO TO QUESTION 5. | | | |
| Q5. Does the Applicant have a trading name different from that given in answer to questions, 2, 3 or 4 above? If so, please state the trading name below: | | | |
| | | | |

| | | |
|---|---------|-------------------------|
| Q6. What is the Applicant's trading address: | | |
| 1, Granada Road, Southsea, Hants PO4 ORD | | |
| Post Code: | PO4 ORD | Daytime Contact Number: |
| | | |
| Q7. Will the business for which a licence is required be carried on for the benefit of a person other than the applicant: | | |
| If yes, please provide below the name of such person(s). If such person(s) are a company or other corporate body, state their place of registration and registered number, and the identity of all Directors, the Company Secretary and those with a shareholding greater than 10%. | Yes | No / |
| | | |
| Q8. Does the Applicant operate any other sex establishments, whether licensed or not? If so please state the name, address and type of sex establishment (e.g. sex shop, sexual entertainment venue or sex cinema). | | |
| Sex Establishments Wiggle Portsmouth Wiggle Southampton Wiggle Weymouth Wiggle Bournemouth | | |
| Q9. For each of the individuals named in the answers to questions 2, 3, 4, 7 and 8, please confirm that the form at Appendix A to this application form has been completed and submitted as part of this application. | Yes | No |

Part 2 – THE PREMISES, VEHICLE, VESSEL OR STALL

please tick ✓

| | | | | | |
|---|------------|------------|---|-----|----|
| Q10. Is this application in respect of: | | | | | |
| a) Premises | | | / | | |
| b) Vehicle | | | | | |
| c) Vessel | | | | | |
| d) Stall | | | | | |
| Q11. If the application relates to a vehicle, vessel or stall, where is it proposed to be used: | | | | | |
| | | | | | |
| Q12. If the application relates to a premises, please provide the full address of the premises for which a licence is required: | | | | | |
| 1, Granada Road, Southsea. | | | | | |
| Post Town: | Portsmouth | Post Code: | Po3 5sx | | |
| Q13. Is the whole of the premises to be used as a sex establishment: | | | <table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> </table> | Yes | No |
| Yes | No | | | | |
| If not, please state below: <ul style="list-style-type: none"> the use of the remainder of the premises; and the names of those who are responsible for managing the remainder of the premises. | | | | | |
| Front is a nightclub and will be managed by the above named persons | | | | | |
| Q14a. State the nature of the Applicant's interest in the premises, vehicle, vessel or stall, e.g. owner, lessee, sub-lessee: | | | | | |
| Owner | | | | | |

| | | |
|--|---|-----|
| Q14b. If the Applicant is a lessee or sub-lessee, state: | | |
| (i) | The name and address of the landlord: | |
| | | |
| (ii) | The name and address of the superior landlord (if any): | |
| | | |
| (iii) | The amount of the annual rental: | |
| (iv) | The length of the unexpired term: | |
| (v) | The length of notice required to terminate the tenancy: | |
| Q15a. State the current use of the premises: | | |
| Night club and Lap dancing club | | |
| Q15b. Is there a planning permission for the use of the premises, vehicle, vessel or stall as a sex establishment?: | | Yes |
| Q15c. If so, state the date of the planning permission: | | |
| Q15d. If not, state whether and why the use as a sex establishment is lawful, e.g. because there is a certificate of lawful use, giving full details: | | |
| Existing SEV licence | | |
| Q16a. Are the premises, vehicle, vessel or stall licensed under any other Act, e.g. the Licensing Act 2003?: | | Yes |
| Q16b. Please provide full details including the name of any Designated Premises Supervisor : | | |
| Jaspal Singh Ojla | | |

| | | |
|---|------------|-----------|
| Q16c. Does the Applicant intend to obtain a licence under any other Act or to apply to vary any existing licence under any other Act?: | Yes | No |
| Q16d. Does the Applicant intend to operate the sex establishment in conjunction with any other licence? If so, provide full details below: | Yes | No |
| | | |
| Q17a. Is each customer access to the premises, vehicle, vessel or stall: | | |
| • Directly from the street or a public thoroughfare? | / | |
| • From other premises? | | |
| If from other premises, please provide full details below: | | |
| | | |
| Q17b. Is each customer access from the street to be supervised at all times the premises are open to the public?: | Yes | |
| If the answer is No, give full details of proposed door control and supervision: | | |
| | | |
| Q17c. State whether all door supervisors are to be licensed with the SIA: | Yes | |
| Q18. Are the premises, vehicle, vessel or stall constructed or adapted so as to permit access to, from and within the premises (including WC facilities) for disabled members of the public? | Yes | No |
| If the answer is No, please state the Applicant's proposals for affording such access? | | |
| | | |

| | | |
|--|------------|-----------|
| Q19. Are the premises, vehicle, vessel or stall being used as a sex establishment at the date of this application?: | Yes | No |
| If the answer is yes, please state the name and address of the person or body now operating the business: | | |
| | | |

Part 3 – THE BUSINESS

| | |
|--|---|
| Q20. Under what name will be business be known?: | |
| Elegance | |
| Q21. Is the application in respect of: | |
| • A sex shop | |
| • A sex cinema | |
| • A sexual entertainment venue | / |
| Q22. Has the Applicant entered into any agreement (whether written or oral) in connection with the business, other than a tenancy agreement or lease, for example: <ul style="list-style-type: none"> • a management agreement; • partnership agreement; • profit share arrangement. | |
| If so, please provide full details together with a copy of any such agreement?: | |
| | |
| Q23. Give the name and addresses of any lenders, mortgagees or others providing finance with the full terms of such agreements: | |
| | |

Q24. Is the business required to purchase merchandise from a particular person or body? If so provide full details.

Part 4 – MANAGEMENT OF THE BUSINESS

Q25a. State the identity of the person who will be responsible for the day to day management of the business at the premises, vehicle, vessel or stall (“the Manager”):

Jaspal Singh Ojla

Q25b. Will the Manager be based at the premises, vehicle, vessel or stall and that management of the business there will be his/her sole and exclusive occupation?:

Yes

No

Q25c. State which person(s) will be responsible for the day to day management of the business in the absence of the Manager (“the Relief Manager”)?:

Taran Ojla

Q25d. Will the Relief Manager(s) or one of them be based at the premises full-time in the absence of the Manager?:

Yes

No

Q25e. In respect of the Manager and Relief Manager(s), please confirm that the form at Annex A to this application has been completed and submitted as part of this application.

Yes

No

Q26. THIS QUESTION NEED NOT BE ANSWERED IN RESPECT OF RENEWAL APPLICATIONS.

Please give details of the days and times during which it is proposed that the business will be open.

Q27. Please state the proposals in respect of exterior signage and advertising, including the nature, content and size of such signage, and any images to be used. (please note that a colour photo/ plan of the exterior showing such signage and advertising is required to be submitted with this application):

As existing

Q28a. What means are to be taken to prevent the interior of the premises being visible to passers-by?:

As existing no visibility

Q29b. What, if any, window displays are to be exhibited? Please indicate the size and nature of any intended display:

As existing

Q30. State what age restrictions are to be applied in respect of admissions and how are these to be enforced?: (Please state as part of your answer what forms of ID will be accepted and whether it is proposed to use electronic systems. For sex shops, please provide details of arrangements for preventing proxy sales)

As existing Challenge 25

Q31. Please state the arrangements for CCTV at the premises and for the retention of recordings: (Please state as part of your answer whether all public areas are to be covered by CCTV at all times the business is open and whether the feed from all cameras will be recorded)

As existing

| | | |
|---|------------|-----------|
| Q32. ANSWER THIS QUESTION ONLY WHERE THE APPLICATION RELATES TO A SEXUAL ENTERTAINMENT VENUE. | | |
| Q32a. Is the proposal to allow full nudity at the premises? | YES | NO |
| Q32b. Provide full details of the nature of the entertainment intended to be provided, e.g. lap-dancing, pole dancing, stage strip-tease: | | |
| Pole and Lap dancing | | |
| Q32c. Please state what, if any, separation between performers and audience is proposed. E.g. performers on stage; 1 metre; no contact; or full contact: | | |
| Performance on stage and in designated areas NO CONTACT | | |
| Q32d. Is it intended to provide private booths or areas? | Yes | No |
| If yes, please provide full details including proposals for supervision of such areas: | | |
| Fully monitored cctv camera in each booth | | |
| Q33. THIS QUESTION NEED NOT BE ANSWERED IN RESPECT OF RENEWAL APPLICATIONS. | | |
| Q33a. Please state the proposals for preventing nuisance to residents and businesses in the vicinity: | | |
| As before | | |
| Q33b. Please state the proposals for promoting public safety: | | |
| As before | | |

| |
|--|
| Q33c. Please state the proposals for preventing crime or disorder: |
| As before |
| Q33d. Please state the proposals for protecting children from harm: |
| As before |
| Q33e. Please state the Applicant's systems for checking the age and right to work in the UK for all staff and dancers/performers. |
| As before |
| Q33f. IN RESPECT OF SEXUAL ENTERTAINMENT VENUES ONLY, please set out the system for training all staff in the Code of Practice for performers and for monitoring and enforcing compliance: <i>(Please note that the Code of Practice must be attached to this form)</i> |
| A set of performers rules are in place, All performers have to sign our code of conduct anyone in breach is suspended |
| Q33g. IN RESPECT OF SEXUAL ENTERTAINMENT VENUES ONLY, please set out the system for notifying customers of the Rules for Customers and for monitoring and enforcing compliance: <i>(Please note that the Rules for Customers must be attached to this form)</i> |
| Customers are verbally told of our code of conduct on entry. Posters are also placed around the venue. Customers who do not abide by the rules are asked to leave. |
| Q33h. IN RESPECT OF SEXUAL ENTERTAINMENT VENUES ONLY, please set out the system for monitoring compliance with the venue's Policy for Welfare of Performers. <i>(Please note that the Policy for Welfare of Performers must be attached to this form)</i> |
| As before |

Q34. Set out any further information which you wish the Licensing Authority to take into account: *(Include here any proposed conditions (you may attach a schedule of such conditions) or any reason relied upon to provide an exception to the Authority's Sex Establishment Licensing Policy)*.

Q35. Is there any information on this form which you do not wish to be seen by members of the public? If so, please state which particular information you wish to remain private and provide reasons why you do not wish it to be seen.

| |
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Part 5 – APPLICANT CONTACT DETAILS

| PLEASE GIVE THE CONTACT DETAILS WHICH YOU WOULD LIKE TO BE USED FOR THE PURPOSES OF THIS APPLICATION. | |
|---|--|
| Name: | Jaspal Singh Ojla |
| Organisation: | Wellhot Limited |
| Address: | Ojs industrial park, Claybank Road, Portsmouth PO3 5SX |
| Telephone Number: | |
| Mobile Number: | |
| Fax Number: | |
| | |
| | |

Part 6 – SIGNATURE AND DECLARATION

| | |
|---|-------------|
| <p>The following declaration must be signed in all cases:</p> <ul style="list-style-type: none"> • If the Applicant is an individual, by that individual; • If the Applicant is a partnership, by all individuals who are partners; • If the Applicant is a company, by a director; • In any other case, by a duly authorised officer of the Applicant. | |
| <p>Should the information provided in relation to this application cease to be correct, or if there are any changes in the information provided as part of the application between the date the application is submitted and the date it is determined, the Applicant MUST advise the Licensing Authority immediately. FAILURE TO DO SO MAY RESULT IN ANY LICENCE ISSUED BEING REVOKED.</p> | |
| <p>I/We certify to the best of my/our knowledge and belief that the information given in this application is complete and correct in every respect.</p> <p>I/We agree to notify the Licensing Authority should any of the information given in this application change.</p> | |
| Name: | Jaspal Ojla |
| Position in Organisation: | Director |



Portsmouth
CITY COUNCIL

| | | | |
|-------------------|-------------|--------------|------------|
| Signature: | Jaspal Ojla | Date: | 15/02/2023 |
|-------------------|-------------|--------------|------------|

APPENDIX A

Part 7 – INFORMATION ON INDIVIDUALS

| | | | |
|---|-------------|-----------|--|
| Name: | Jaspal Ojla | | |
| Former Name (if any): | | | |
| Position in relation to Applicant: (e.g. Director, Partner, Manager) | | | |
| Date of Birth: | | | |
| Gender: | Male | | |
| Permanent Residential Address: | | | |
| If resident at this address for less than 3 years, state previous address: | | | |
| Have you been resident in the UK for more than six months prior to the date of the application?: | Yes | | |
| Have you ever been disqualified from holding a sex establishment licence under Schedule 3, paragraph 17 of the Local Government (Miscellaneous Provisions) Act 1982. If yes, give full details. | Yes | | |
| Have you ever been involved in the management of a business, whether as proprietor, director, company secretary, partner, manager, supervisor or otherwise which has had any of the following types of licence refused, refused on renewal, reviewed or revoked? | | | |
| Sex establishment licence | | No | |

| | | | |
|---|-------------------|----------|------------------|
| | | | |
| Licence for the sale or supply of alcohol | | | No |
| Licence for the provision of entertainment, whether sexual or otherwise | | | No |
| Personal Licence under the Licensing Act 2003 | | | No |
| | | | |
| If so, please provide full details: | | | |
| | | | |
| Have you ever been convicted of a criminal offence, whether in the UK or elsewhere?: | | | No |
| If so, please provide the following details: | | | |
| Date: | Convicting Court: | Offence: | Penalty Imposed: |
| | | | |
| To your knowledge, are you currently the subject of any criminal investigation?: | | | No |
| If so, please provide full details: | | | |
| | | | |
| Have you ever had any civil legal action taken against you? | | | No |
| If so, please provide full details: | | | |
| | | | |

| | | |
|---|------------|-----------|
| | | |
| Have you ever been declared bankrupt or entered into an arrangement with creditors or an Individual Voluntary Arrangement?: | | No |
| If so, please provide full details: | | |
| | | |
| Have you ever been disqualified from acting as a company director?: | | No |
| If so, please provide full details: | | |
| | | |
| Is there any other information which you believe the Licensing Authority would reasonably need to know or you would like the Licensing Authority to take into account when considering the information you have supplied?: | Yes | No |
| If so, please provide full details: | | |
| | | |
| Is there any information in this Annex which you do not wish to be seen by members of the public?: | Yes | |
| If so, please state which information and the reasons why you do not wish it to be seen. | | |
| Home Address | | |
| | | |
| I DECLARE THAT THE INFORMATION PROVIDED IN THIS ANNEX IS TRUE AND | | |

COMPLETE.

Signed: Jaspal Ojla

Dated: 03-02-23



Portsmouth
CITY COUNCIL

APPENDIX B

Part 8 – DOCUMENTS TO BE SUPPLIED WITH THIS APPLICATION

| | | |
|---|-----|----|
| Site Scale Plan (1:1250). | Yes | No |
| Drawings showing the front elevation as existing. | Yes | No |
| Drawings showing the front elevation as proposed (including proposed signage, advertising and window display. | Yes | No |
| Scale Layout Plan of Premises. (Note the requirements of the layout plan are set out below). | Yes | No |
| Planning Permission. | Yes | No |
| Certificate of Lawful Use or Development. | Yes | No |
| If the Applicant is a company, copies of the Memorandum and Articles of Association of the Company. | Yes | No |
| If the Applicant is a partnership, a certified copy of the Partnership Deed. | Yes | No |
| A copy of any other licences for the premises, vehicle, vessel or stall. | Yes | No |
| Code of Practice for Performers. | Yes | No |
| Rules for Customers. | Yes | No |
| Policy for Welfare of Performers. | Yes | No |

Part 9 – REQUIREMENTS FOR LAYOUT PLAN

| |
|---|
| The Layout plan must show: |
| 1. The layout of the premises including, stage, bars, cloakroom, WCs, performance area, dressing rooms. |
| 2. The extent of the boundary of the premises outlined in red. |
| 3. The extent of the public areas outlined in blue. |
| 4. Uses of different areas in the premises, e.g. performance areas, reception |

| |
|---|
| 5. Structures or objects (including furniture) which may impact on the ability of individuals to use exits or escape routes without impediment. |
| 6. Location of points of access to and egress from the premises. |
| 7. Any parts used in common with other premises. |
| 8. Position of CCTV cameras. |
| 9. Where the premises include a stage or raised area, the location and height of each stage or area relative to the floor. |
| 10. Where the premises includes any steps, stairs, elevators or lifts, the location of the same. |
| 11. The location of any public conveniences, including disabled WCs. |
| 12. The position of any ramps, lifts or other facilities for the benefit of disabled people. |
| 13. Any level changes at the entrance to or within public parts of the premises which may be inaccessible to disabled people. |
| 14. The location and type of any fire safety and any other safety equipment. |
| 15. The location of any kitchen on the premises. |
| 16. The location of emergency exits. |

Part 10 – DOCUMENTS EVIDENCING PUBLIC NOTICE AND SERVICE

| | | |
|--|-----|----|
| Complete copy of newspaper circulating in the area of the authority, containing advertisement of this application. | Yes | |
| Copy of notice of application displayed on or near the premises. | Yes | |
| Copy of affidavit or statutory declaration that notice has been displayed as required by Schedule 3, paragraph 10(10) of the Local Government (Miscellaneous Provisions) Act 1982. | Yes | |
| Evidence of service of this application form and all enclosures upon the Chief Officer of Police within 7 days after the date of this application. | Yes | No |

Contact Details for the Police:

Hampshire Constabulary
Licensing Unit
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
PO1 2AL

Email: force.licensing@hampshire.pnn.police.uk
Tel: 0845 045 4545
Direct Dial: 023 9289 9080
Fax: 023 9289 3285

NOTE: WHEN THE APPLICATION IS MADE ELECTRONICALLY, INCLUDING ALL ENCLOSURES, THE LICENSING AUTHORITY WILL SERVE THE CHIEF OFFICER OF POLICE.

Portsmouth City Council will process your personal information in accordance with data protection law. The personal details provided by you will be used for licensing service purposes. Your details will be held on a database and where the law allows, may be shared with other departments within the council to update details they hold about you. The council may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.

For further information about how the Council collects and uses personal information please visit our website: <https://www.portsmouth.gov.uk/ext/the-council/data-protection-privacy-notice>

APPENDIX C

OBJECTIONS RECEIVED IN RESPECT OF ELEGANCE GRANADA ROAD SOUTHSEA RENEWAL OF SEX ESTABLISHMENT LICENCE - SEXUAL ENTERTAINMENT VENUE

| Objection No: | Comments: |
|---------------|---|
| 1 | <p>I wish to object to the Planning Application for a sex licence at the Bar which is part of the building which is a venue for live music events, at the bottom end of Waverly Road, just by the large roundabout.</p> <p>My reasons are the same as sent to you on a previous application. Such 'entertainment' has been shown to lead to abusive comments and behaviour directed towards women, especially those who appear vulnerable.</p> <p>I am happy to discuss this further if needed.</p> <p>I used to work for Womens Aid, and am familiar with situations which lead to abuse of women, and indeed children.</p> |
| 2 | <p>Please register my Objection to the renewal of WellHot Ltd renewing the Sex Establishment licence for Elegance dance club, Granada Road Southsea as this would breach the equality.</p> <p>I am also objecting to the strip club licence renewal as the building is located in a residential location and close to several Churches, children's play parks and local schools.</p> <p>This type of business is misogynistic and has potential to exploit vulnerable young woman and breaches the equality law, not to mention the potential to increases drunken anti social behaviour in the area.</p> <p>Please register my Objection to this Sex Establishment licence renewal for Elegance strip/ dance club in Granada road, Southsea.</p> |
| 3 | <p>Please register my Objection to the renewal of WellHot Ltd renewing the Sex Establishment licence for Elegance dance club, Granada Road Southsea as this would breach the equality.</p> <p>I am also objecting to the strip club licence renewal as the building is located in a residential location and close to several Churches, children's play parks and local schools. This type of business is misogynistic and has potential to exploit vulnerable young woman and breaches the equality law, not to mention the potential to increases drunken anti social behaviour in the area.</p> <p>Please register my Objection to this Sex Establishment licence renewal for Elegance strip/ dance club in Granada road, Southsea.</p> |
| 4 | <p>To whom it concerns I wish to say I do not agree with Elegance opening again as attracts wrong people to area late night noise.</p> |
| 5 | <p>I would like to lodge an objection to the planning of a sex venue in this family & residential area. It is wholly inappropriate for such an establishment to operate in this area, and I strongly object. I live on Granada road and do not wish my children to see this establishment on their way home from school.</p> |

| Objection No: | Comments: |
|---------------|--|
| 6 | <p>I would like to object to the renewal of the sex establishment license for Elegance Night Club on Waverley Road.</p> <p>This is a completely inappropriate use of this building and an inappropriate location for such an establishment.</p> <p>It's a residential area with lots of families living on the vicinity and the noise created late at night would be totally unexceptable. Late night venues also promote litter, broken glass, cigarette butts and other in unsightly things on the surrounding streets. Not what you want to see when you are walking your young children to school the next morning.</p> <p>Also don't think it's appropriate to have a sex venue this close to a church, preschools and schools.</p> |
| 7 | <p>I write to object to the proposed renewal of the license for Elegance at 1 Granada Road.</p> <p>The club has not operated for some years, and the nature of the area and attitudes have changed - it is not an appropriate place for a lap dancing club, in a residential area, close to several schools. Most people living here have never experienced it in operation and I doubt you would grant a new license. This renewal feels like a short circuit of the process.</p> |
| 8 | <p>I am writing to object to the licensing of the sex establishment Elegance by Wellhot Ltd.</p> <p>I am opposed to the exploitation and objectification of women in the sex industry, and feel that this kind of business should be discouraged by the City Council.</p> <p>However, if our city must have sex establishments, surely they should be located in the city centre, or a more commercial part of town, not on a residential street in Southsea. My children walk to school and to the shops nearby, and I do not want them to be exposed to this kind of content at a young age. It is inappropriate for such a business to be operating in a residential area where there are many families with children.</p> <p>I would be grateful if you could please take into account of the concerns of local residents, and please let me know the outcome of this application.</p> |
| 9 | <p>Please register my Objection to the renewal of WellHot Ltd renewing the Sex Establishment licence for Elegance dance club, If granted the licence would see the council breaching the equality law, how can it be ok in the 21st Century for woman be paid to strip? Putting the Portsmouth City council at risk of legal challenge by those who object to strip clubs.</p> <p>I feel this strip club should not have its licence renewed as it is not located in the right place, being in a residential location and close to children's play parks and local schools.</p> <p>This type of business is misogynistic and has potential to exploit vulnerable young woman and breaches the equality law, not to mention increase drunk anti social behaviour.</p> <p>I would no longer feel safe if the strip club is aloud to re open, knowing there are increased drunken men coming in to the road a a no surrounding area, knowing they want to exploit woman.</p> <p>Please register my Objection to this licence renewal for Elegance strip/ dance club and update me of the licensing panel's outcome.</p> |

| Objection No: | Comments: |
|---------------|--|
| 10 | <p>I am sending this email to object to the Wellhot Ltd company renewing the sex establishment Licence for 'Elegance' on the following grounds:</p> <p>Granada road is a residential road with mainly family housing leading down to Canoe Lake and the seafront.</p> <p>After the nightclubs in this road and along the seafront have moved the area has become a lot quieter at night and with no drunken violent associated behaviour - until the Moonshine bar was opened - this has caused a lot of drunken and violent activity to return to Granada road.</p> <p>It is bad enough the Moonshine nightclub was granted a licence let alone having the 'Elegance' Sex establishment open in the same building.</p> <p>This would cause more late night drinking and further anti-social behaviour. Bringing men into a residential area to get intoxicated and aroused. There are now no taxi ranks in the area and no other drinking establishments for them to go onto - if this kind of establishments is required in Portsmouth then surely it should have been planned with the previous move of nightclubs from the seafront area into the centre of town, where there is less residents getting effected, policing is able to concentrate on the one area and taxi's and other facilities for the patrons.</p> <p>It is not appropriate that a Sex establishment license is granted for this establishment as it is yards away from St Simon's Church that conducts evening children's Youth Clubs, homeless support and woman's groups etc, along with the local schools in the immediate facility including: Mayville High School being the closest, then St Swithuns Primary School, Cranswater Junior, Southsea Primary school, youth and toddler clubs in St Swithuns church hall and St Swithuns Church, Wimbledon Road park and leisure centre, seafront and Canoe Lake children's play parks.</p> <p>This is a seafront tourist area with bed and breakfast accommodation, holiday let's and hotels, tourists will not want to stay in the same road as a Sex Establishment, Stripper Club and Moonshine nightclub- people perceiving this to be an unsavoury and unsafe area to want to stay in or walk back to their accommodation at night - around drunken, sexually aroused, anti social men, leading down to a dark Canoe Lake children's park area and the seafront.</p> <p>With the volume of family tourists, residential homes, churches and schools in the area I strongly object to the council renewing the Sex Establishment Licence for the Strip club called Elegance on the corner of Granada road and Waverley road.</p> <p>This strip club will encourage late night drinking and sexually arouse men in a residential area of southsea, potentially making it unsafe and unpleasant for local family's and vulnerable woman to want to be around , not to mention, in this day and age does Portsmouth City Council want to facilitate and be associated with this misogynistic and sexual exploitive business that makes financial gain from vulnerable young woman taking their clothes off for money.</p> <p>If granted it has the potential to effect the reputation of the PCC, putting of tourism- as it reflects poorly on families planning a vacation to Southsea and in the worst case scenario increase public expenditure dealing with increased crimes and worse case potential sexual crimes, just so a few men can get off watching young girls strip!!!! for money.</p> <p>The PCC should discourage this misogynistic type of business or at the very least have it sited in a suitable safer part of the city, where there are more policing and other facilities, do not give the business the license in a residential area surrounded by families, woman and children, Churches, youth clubs and schools.</p> <p>As a resident of Granada road, I for one would not feel safe going out in my own road and it would prevent me leaving my home if this licence was granted.</p> <p>Please update me on the outcome.</p> |

| Objection No: | Comments: |
|---------------|---|
| 11 | <p>I note that WELLHOT Ltd have applied to renew the sex establishment licence for Elegance, 1 Granada Road.</p> <p>I formally object to the renewal of this licence.</p> <p>I believe that the area is not suitable for a sex establishment. It is within a residential area where many families live. It is in close proximity to a nursery and primary school, and a church. Many schoolchildren walk past this building on their way to and from school, my own included.</p> <p>My teenage daughters are appalled that they have to live near and daily go past a sex establishment.</p> <p>Moreover, I believe that this type of business is misogynistic, degrading and exploitative, and that, in line with our values as a city, the council should discourage such business, not license it.</p> <p>I would be grateful if you could let me know the outcome of the application, and how I should access an appeal process if the licence is unfortunately granted.</p> |
| 12 | <p>Please register my Objection to the renewal of WellHot Ltd renewing the Sex Establishment licence for Elegance dance club, Granada Road Southsea as this would breach the equality.</p> <p>I am also objecting to the strip club licence renewal as the building is located in a residential location and close to several Churches, children's play parks and local schools.</p> <p>This type of business is misogynistic and has potential to exploit vulnerable young woman and breaches the equality law, not to mention the potential to increases drunken anti social behaviour in the area.</p> <p>Please register my Objection to this Sex Establishment licence renewal for Elegance strip/ dance club in Granada road, Southsea.</p> |
| 13 | <p>I note that WELLHOT Ltd., have applied to renew the sex establishment licence for Elegance, 1 Granada Road.</p> <p>I hereby formally object to the renewal of the licence.</p> <p>The establishment such as this one, is not suitable to operate in this location, as it lies within a residential area close to nurseries and schools with many young families passing by each day.</p> |
| 14 | <p>I would like to file my objection to the renewal of a strip club reopening in Waverly road and granada road southsea .Its bad enough the club reopening around a residential area.</p> |
| 15 | <p>Hi I am wring to OBJECT to the reestablishment of the sex club in Granada Road, Southsea.</p> |
| 16 | <p>We would like to submit this email, to object to the issuing of a licence to WELLHOT LTD for the EIEGANC STRIP CLUB</p> |

| Objection No: | Comments: |
|---------------|--|
| 17 | <p>I would like to object to the proposed licensing of a sex establishment so close to a School. It is inappropriate for the very best of reasons.</p> <p>I do hope that PCC will not grant such a licence.</p> |
| 18 | <p>Please register my Objection to the renewal of WellHot Ltd renewing the Sex Establishment licence for Elegance dance club, in Granada Road Southsea as this would breach the equality law.</p> <p>I am objecting to the strip club licence renewal as the building is located in a residential area and close to several schools, Churches, children's play parks and seafront area.</p> <p>This type of business has the potential to exploit vulnerable young women. It also increases loud drunken anti social behaviour in the surrounding area which is not good for local residents and visitors to the area.</p> <p>Also there is no parking for this establishment, in the past customers have parked their cars on the double yellow lines in Waverley road and Granada road at night causing more parking problems and road hazards to drivers at night.</p> <p>I would also no longer feel safe in the area if the strip club is reopened, due to the nature of this establishment.</p> <p>Please register my Objection to this licence renewal for Elegance strip/ dance club in Granada road Southsea and please update me of the licensing panel's outcome.</p> |
| 19 | <p>We wish to file an objection to the renewal of WellHot Ltd renewing the Sex Establishment license for elegance strip club, located on the corner of Waverley Road & Granada Road Southsea AKA Moonshine.</p> |
| 20 | <p>I am objecting to the renewal of Wellhot Ltd, renewing the Sex Establishment licence for Elegance Strip club establishment, at the corner of Granada and Waverley Road Southsea.</p> <p>I am objecting on the ground that the club is sited in a residential area, the premises has no parking provisions either and there is no longer any late night logistic facilities ie taxi ranks, as they moved from the area when the PCC closed or re-located the previous night clubs on Southsea seafront - due to the cost of Policing the anti social behaviour caused by late night drinking.</p> <p>With the new plans to pedestrianise Fawcett and Laurence Road it would be difficult for patrons to access Elegance and they not to be able to park or if drinking get late night return transport.</p> <p>I think the PCC should set an example and not condone this type of business that has the potential to exploit vulnerable woman, not to mention the potential to increases anti social behaviour in Waverley road and the surrounding residential streets. To date there have been several stabbings and deaths in and around this road, we need to reduce this number and make Southsea a safer and more appealing and welcoming place for tourists and holidaymakers to visit.</p> <p>Please register my Objection to the licence renewal for Elegance strip/ dance club, Wellhot Ltd in the residential location of Southsea, could you also update me of the PCC licensing panel's decision.</p> |

| Objection No: | Comments: |
|---------------|---|
| 21 | <p>We would like to officially log an objection in respect of a proposal by Elegance Strip Club that their Sex Establishment Licence be renewed.</p> <p>We are residents of Granada Road and feel that promotion of a sex establishment in the direct vicinity will have a detrimental impact for the following reasons:</p> <ul style="list-style-type: none"> • It may attract potentially unsavoury characters to the area, especially late at night • Noise pollution will be an issue, especially when residents expect to be sleeping • It will affect how safe people feel in the area given that establishments of that nature are often fuelled by alcohol and other substances • It will tarnish the reputation of living in Granada Road (ie, it will become known as the road with the sex establish at the end) • It will likely affect house prices due to people not wanting to live next to a sex establishment • There is virtually no distance between the establishment and residents resulting in it being impossible to separate yourself from such a business • Being a residential area, there are young families and the elderly in direct proximity which is entirely inappropriate • Such an establishment should only be considered for a location which is somewhat removed from direct housing • Living by the sea is a privilege and central Southsea does not have a reputation for being sleazy; this should be maintained <p>We are not opposed to such a businesses as a concept, however, the placement in communities should be thoughtfully considered.</p> <p>We are happy to discuss further if required.</p> |
| 22 | <p>Hi, I do not agree of renewal the license of wellhot ltd to renewal for Elegance strip club located on the corner of waverly rd as this erea is resident no place for this club to be round us due to amount of noice and trouble at night.</p> |
| 23 | <p>I would like to object to the renewal of a license for the ELEGANCE STRIP CLUB in Waverley Road, Southsea.</p> <p>I object because granting this license both promotes and condones a sexual culture which has proven links to gender based violence and discrimination. By licensing such a business it gives rise to the normalisation of people taking their clothes off for money. I trust this is not part of the culture for our liberal democrat administration ?</p> <p>I further object because of the clubs location in a residential area. As a resident I do not want these seedy outposts of the sex industry on my doorstep where residents have to endure the kind of anti-social behaviour and often illegal activities that a strip club attracts and makes many residents feel unsafe.</p> |
| | |

| Objection No: | Comments: |
|---------------|--|
| 24 | <p>I wish to register my objection to the above application to renew the sex establishment licence for 1 Granda Road.</p> <p>Such an establishment has no place in a family residential area near schools and does not promote the values of a modern 21st City. The council should not be complicit in allowing such a venue to continue to exist and promote the exploitation of women.</p> |
| 25 | <p>A friend has recently shared that WELLHOT Ltd has applied to renew a sex establishment licence for Elegance, 1 Granada Road.</p> <p>I find this appalling too and I'm objecting to its renewal.</p> <p>As [REDACTED] has written previously to you, the building is on the walk to and from schools, it is near a nursery, and a church and it is not ethically acceptable. We don't want people finding this on their doorstep.</p> <p>If anything it will increase negativity in the area, Waverly road is already known for being a difficult place in the evenings and I wish not for this to be increased with the further temptation to locals in the area with a sex establishment. The idea is disgusting, people being objectified for money and exploitation. It is a sad way to go, it's dangerous, if a man was to be found cheating with one of the workers, then who knows how the partner would react? Arguments, fights, and these events lead to difficult family situations, drinking problems, and domestic abuse.</p> <p>Both men and women should actually be taught how they can spend their time better rather than exhausting themselves day in and day out with the act, their talents will go to waste.</p> <p>Sex is not a thing to be used as exploitation, it was made so we could bond with the person we are made to be with forever, to show our love and connection to that person, when you have sex you give a part of you up to that person, a part of you that if you fall apart you leave behind, a part of your dignity.</p> <p>I can't let more men and women fall into this, youth will see this and look the wrong way and continue to see sex as a normal form of spending their life, a way to make money and will forget why it actually exists.</p> <p>I'm sorry but it can't go on.</p> <p>I object to the renewal and I wish to know the application outcome so I can appeal if it is renewed (in the unfortunate case it is).</p> |

| Objection No: | Comments: |
|---------------|---|
| 26 | <p>The area has changed materially since this establishment was originally introduced. The area is no longer a night life social centre with a multitude of bars and clubs close by.</p> <p>The presence of this sex establishment now has an adverse affect on the character and functioning of this local area of Southsea, which is predominantly residential with a strong presence of families.</p> <p>It has an adverse effect on the amenities of the community centred facilities such as shops, schools and churches located within a very close proximity of this establishment. It's not appropriate for young and adolescent school children to be walking past a sex establishment to get to their places of education.</p> <p>With frequent references made in 'The Portsmouth Plan' to the challenges of providing additional housing in Portsmouth, the use of such a site for a sex establishment which is completely out of context to the nature of the functioning of the surrounding area, it seems this would be far better placed to become additional desperately needed housing, or for a use that would enhance the local communities' benefit of the area.</p> <p>It's presence also negatively impacts on the atmosphere and appearance of the area, detracting from what is a predominantly residential area. With the seafront policy aiming to enhance the seafront to encourage exercise and relaxation and to improve the leisure and entertainment offer at the seafront and provide a year round destination for the benefit of local residents as well as visitors, this establishment does not compliment these objectives.</p> <p>Noise from its use negatively affects the quality of life of those living in the area. The noise in summer from patrons is very disruptive as drunk people wander down the street singing and shouting. When temperatures become very high as we are seeing more frequently, and it is essential to open a window at night, this disruption becomes even more impactful; sleep is disrupted.</p> <p>Given the organised approach from the Council to developing distinct districts within Portsmouth to suit varying uses, it seems there are better suited areas of the city that would be able to sustain such an establishment over that of this heavily residential area of the city.</p> |

| Objection No: | Comments: |
|---------------|---|
| 27 | <p>Please can you make my objections known for the relicensing of the elegance strip club.</p> <p>Since the club on Granada road and the bar on the strand have opened, we have seen a larger amount of people aware of the area than before. I have not had a personal issue with their noise or their venues organised nights regularly, however there is alot more noise after the clubs have closed.</p> <p>I have experienced alot of people coming in to the close (chewter close) who don't live here, we've had various attempted break ins to cars and some successful and people using the private parking spaces and parking on the entrance to the road on kerbs and double yellows making it unsafe. We are already dealing with larger footfall to the area and this will be exacerbated by allowing another late licensed venue to open.</p> <p>I am also very unsupportive of the strip club industry monetising vulnerable young women's bodies. We are meant to be making this city the focus of arts and culture, diversity and inclusion. Not focussing on the derogatory establishments over the city that are outdated and not needed.</p> <p>I have three young daughters, and do not feel this business is appropriate to be on the doorstep.</p> <p>Waverly road and the strand have become unsafe in the evenings, there are many hmo's and half way/recovery houses located around. By adding to this, we will bring the area down, not lift it up.</p> <p>I have always been supportive of local businesses, but we need more of a focus on bringing the area up, not making it a target for men to oggle over naked women.</p> |
| 28 | <p>I would like to register my concern about the request for renewal of the sex establishment licence for 'Elegance' in Waverley/Granada Road. I do not think it should be granted.</p> <p>These roads are situated in an area for family life with many family homes, schools and Churches. WellHot Ltd is not a business suited to this location.</p> <p>Please take my concern into consideration when making your decision.</p> |
| 29 | <p>Please accept this email as my objection to the Elegance strip club licence renewal.</p> <p>I cant see any mention on the PCC 'Welcome to Portsmouth' webpage mentioning or advertising the Elegance Strip Club!</p> <p>Welcome to Portsmouth - Portsmouth (visitportsmouth.co.uk)</p> <p>If the PCC doesn't want to place it on the website for visitors and holiday makers to the area, then why should the residents in Southsea have to have it located here, if required it should be moved to the Portsmouth City Centre where the night clubs and other transport facilities are located.</p> |

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Sexual Entertainment Venues

Guidance for England and Wales

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MINISTERIAL FOREWORD



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

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

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

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

Alan Campbell

A handwritten signature in cursive script that reads "Alan Campbell".

Parliamentary Under-Secretary of State for Crime Reduction

March 2010

INTRODUCTION

Definitions

1.1 In this guidance –

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

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

The “2003 Act” means the Licensing Act 2003

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

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

Policing and Crime Act 2009

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

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

The Guidance

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

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

POLICING AND CRIME ACT 2009

Meaning of Sexual Entertainment Venue

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

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

Nudity

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

The Organiser

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

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

Spontaneous Entertainment

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

Premises that are not sexual entertainment venues

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

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

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

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

Amendments to the Licensing Act 2003

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

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

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

Consultation with Local People

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

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

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

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

The Appropriate Authority

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

Committee or Sub-Committee

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

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

Adopting the Provisions

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

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

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

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

Requirement for a Sex Establishment Licence

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

Premises that are deemed to be Sexual Entertainment Venues

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

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

Notices

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

Application Forms

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

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

Single Point of Contact

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

Fees

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

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

Objections

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

Hearings

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

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

⁴ www.lacors.gov.uk

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

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

Refusal of a Licence

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

A licence must not be granted:

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

3.28 A licence may be refused where:

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

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

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

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

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

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

Relevant Locality

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

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

⁸ Regulation 47

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

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

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

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

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

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

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

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

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

Licence Conditions

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

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

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

Duration of Licences

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

Appeals

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

Licensing Policies

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

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

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

Offences

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

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

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

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

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

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

Provisions Relating to Existing Premises

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

The Services Directive

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

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

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

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

TRANSITIONAL PROVISIONS

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

Transitional Period

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

Existing Operators

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

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

New Applicants

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

Determining Applications Received On or Before the 2nd Appointed Day

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

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

Determining Applications Received After the 2nd Appointed Day

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

Outstanding Applications

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

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

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

Existing Licence Conditions

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

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

ECHR Considerations

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

¹² [2007] UKHL 19

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

Changes to Licensing Policies

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

London

Sex Encounter Establishments

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

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

Hostess Bars

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

Soliciting for Custom

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

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

ANNEX A: GUIDE TO TRANSITIONAL PERIOD AND EXISTING OPERATORS

Appointed Days

1st Appointed Day

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

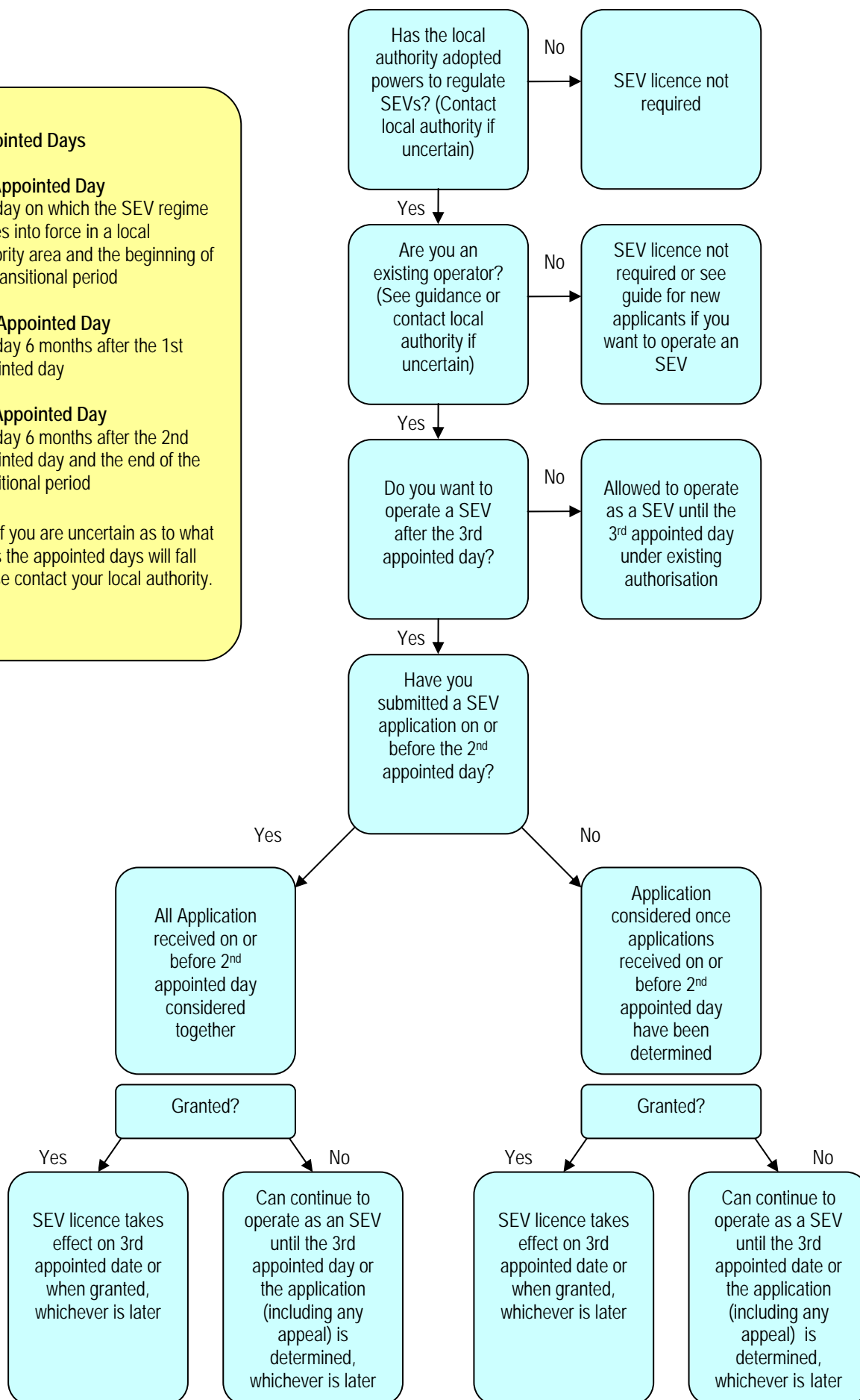
2nd Appointed Day

The day 6 months after the 1st appointed day

3rd Appointed Day

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

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



ANNEX B: GUIDE TO TRANSITIONAL PERIOD AND NEW APPLICANTS

Appointed Days

1st Appointed Day

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

2nd Appointed Day

The day 6 months after the 1st appointed day

3rd Appointed Day

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

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

