

# Licensing (General) Sub-Committee

Monday, 25th March, 2019  
at 6.00 pm

## **PLEASE NOTE TIME OF MEETING**

Conference Room 3 - Civic Centre

This meeting is open to the public

### **Members**

Councillor Mrs Blatchford (Chair)  
Councillor Furnell  
Councillor B Harris  
Councillor McEwing  
Councillor Parnell

### **Contacts**

Democratic Support Officer  
Pat Wood  
Tel: 023 8083 2302  
Email: [pat.wood@southampton.gov.uk](mailto:pat.wood@southampton.gov.uk)

Service Director - Transactions and Universal  
Services  
Mitch Sanders  
Tel: 023 8083 3616  
Email: [mitch.sanders@southampton.gov.uk](mailto:mitch.sanders@southampton.gov.uk)

## **PUBLIC INFORMATION**

### **Terms of Reference**

The Sub-Committee deals with licences, permits and forms of consent (other than those for which the Council is responsible under the Licensing Act 2003), including

- Hackney carriage and private hire drivers, vehicles and operators
- Street trading
- Sex establishments

### **Relevant Representations**

Those who have made relevant representations may address the meeting about the matter in which they have an interest with the consent of the Chair.

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

### **Smoking policy –**

The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting.

**Use of Social Media:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

**Fire Procedure –** in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**Access –** access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

### **Dates of Meetings: Municipal Year 2018/19**

Meetings of the Committee are held as and when required.

## **CONDUCT OF MEETING**

### **Rules of Procedure**

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### **Business to be discussed**

Only those items listed on the attached agenda may be considered at this meeting.

### **Quorum**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## **CONDUCT OF MEETING**

### **DISCLOSURE OF INTERESTS**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PECUNIARY INTERESTS**

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or

b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

### **1 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

To note any changes in the membership of the Sub-Committee made in accordance with Council Procedure Rule 4.3.

### **2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### **3 STATEMENT FROM THE CHAIR**

### **4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 2)

To approve and sign as a correct record the Minutes of the meeting held on 19 July 2018 and to deal with any matters arising.

### **5 EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

### **6 APPLICATION FOR THE GRANT OF A SEX ESTABLISHMENT LICENCE - HIDDEN ASSETS,437 MILLBROOK ROAD WEST,SOUTHAMPTON SO15 0HX** (Pages 3 - 44)

Application for the grant of a sex establishment licence for Hidden Assets 437 Millbrook Road West Southampton SO15 0HX

Friday, 15 March 2019

Service Director - Transactions and Universal  
Services

This page is intentionally left blank

---

SOUTHAMPTON CITY COUNCIL  
LICENSING (GENERAL) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 19 JULY 2018

---

Present: Councillors Mrs Blatchford (Chair), McEwing and Parnell

Apologies: Councillors Furnell and B Harris

1. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

The apologies of Councillors B Harris and Furnell were noted.

2. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED** that the minutes of the meeting held on 27 April 2018 be approved and signed as a correct record.

3. **EXCLUSION OF THE PRESS AND PUBLIC**

The Chair moved that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of item 7 based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein is potentially exempt as it relates to individual personal details and information held under data protection legislation.

**RESOLVED** that having applied the public interest test it was not appropriate to disclose this information as the individuals' legal expectation of privacy outweighed the public interest in the exempt information.

4. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

**RESOLVED** that the Sub-Committee move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by Category 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules, would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee announced.

It was noted that the exclusion paragraph should not have included the Licensing Act 2003 (Hearings) Regulations 2005.

5. **HACKNEY CARRIAGE DRIVER'S LICENCE**

The Sub-Committee considered the report of the Service Director of Transactions and Universal Services to determine whether the applicant was a fit and proper person to hold a hackney carriage driver's licence.

The Licensing Manager, the applicant and his colleague were present and with the consent of the Chair addressed the meeting.

The Sub-Committee has considered very carefully the report of the Service Director – Transactions and Universal Services and all the evidence presented today by the Licensing Manager and the applicant, including references submitted today.

Due regard was given to the Local Government (Miscellaneous Provisions) Act 1976 “the Act” and the guidelines relating to the application of the “fit and proper person” test and other consideration of character. The Human Rights Act had been borne in mind whilst making the decision.

The Sub-Committee considered all the facts and decided that the applicant was not a fit and proper person in accordance with the Act and his application for a hackney carriage driver’s licence was refused.

It was determined that in light of the reasons for the previous decision to exclude the press and public from the hearing and for the report of the Service Director of Transaction and Universal Services to be confidential, the reasons for the decision were also confidential and ought not to be published.



<b>DECISION-MAKER:</b>	Licensing (General) Sub - Committee		
<b>SUBJECT:</b>	Application for a New Sex Shop Licence - Adult Superstore By Hidden Assets, 437 Millbrook Road West, Southampton. SO15 0HX		
<b>DATE OF DECISION:</b>	Monday 25 <sup>th</sup> March 2019 – 1800 hours		
<b>REPORT OF:</b>	SERVICE DIRECTOR - TRANSACTIONS AND UNIVERSAL SERVICES		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	Ian McGuinness	<b>Tel:</b> 023 8083 4231
	<b>E-mail:</b>	ian.mcguinness@southampton.gov.uk	
<b>Director</b>	<b>Name:</b>	Mitch Sanders	<b>Tel:</b> 023 8083 3613
	<b>E-mail:</b>	mitch.sanders@southampton.gov.uk	

<b>STATEMENT OF CONFIDENTIALITY</b>		
<b>BRIEF SUMMARY</b>		
The Sub-Committee is requested to determine the application for a new Sex Shop Licence from Mr. Matthew Barry Caplen Smith in respect of Adult Superstore By Hidden Assets, 437 Millbrook Road West, Southampton. SO15 0HX.		
<b>RECOMMENDATIONS:</b>		
1.	(i)	For the Sub-Committee to consider and determine the application for a new Sex Shop licence in respect of 437 Millbrook Road East, Southampton.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>		
1.	The determination of applications for new Sex Shop licences is not delegated to officers, therefore it is for the sub-committee to consider and determine the application.	
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>		
1.	None	
<b>DETAIL (Including consultation carried out)</b>		
1.	Southampton City Council first adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 16 <sup>th</sup> March 1983.	
2.	Following High Court challenges to other local authorities' adoption of the legislation, the City Council was advised by Counsel in 1995 that it would be appropriate to readopt the provisions. The Council resolved the adoption of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 on 10 April 1995, with the provisions coming into effect from 3 July 1995. Notices setting out the effect of the provisions were published in the Southern Daily Echo on 5 and 12 May 1995.	

3.	From records available, Mr. Matthew Barry Caplen Smith has held a Sex Shop licence in Southampton since 2003 until present day at 439 Millbrook Road East, with the licence to be renewed annually. From records available, he also held a Sex Shop Licence at 103 St Mary Street, Southampton from 2004 to until 8 <sup>th</sup> December 2010.
4.	On 12 <sup>th</sup> February 2019 an application was made by Mr. Matthew Barry Caplen Smith for a new Sex Shop licence in respect of 437 Millbrook Road West. The application submitted is to licence the premises next door to his current licensed premises due to relocation. Records available show this premises also previously held a Sex Shop licence from 2003 to 24 <sup>th</sup> March 2018. A copy of the application is attached as <b>Appendix 1</b> .
5.	In summary, the applicant has applied for the following; 1. The application is for a new Sex Shop licence at 437 Millbrook Road East. A licence was previously held at this address until 25 <sup>th</sup> March 2018. 2. The current business at 439 Millbrook Road West will relocate next door. A copy of the current licence at 439 is attached as <b>Appendix 2</b> .
6.	The applicant has submitted a plan of the current layout of the venue. This is unchanged to the layout of the previous business trading at this premises as a Sex Shop. This is attached to this report as <b>Appendix 3</b> . An impression of the front of the premises has also been submitted, which is of similar design to the current frontage at 439 Millbrook Road West. This is attached to this report as <b>Appendix 4</b> .
7.	A copy of an image of the current shop front at 439 Millbrook Road West where the applicant is currently trading is attached as <b>Appendix 5</b> .
8.	The Act requires the applicant to advertise a new licence application in a local newspaper. This was published on the 14 <sup>th</sup> February 2019. A notice was displayed at the premises throughout the consultation period. A copy of the application was served on Hampshire Constabulary Force Licensing Team.
9.	The Hampshire Constabulary Force Licensing Team made no comment with reference to the application.
10.	Should the Committee be minded to grant the appearance of the shop frontage, it is recommend the applicant be advised of the need to check with the Planning Department as to whether planning permission is required before any changes are implemented.
11.	Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 sets out the framework for the consideration of applications for sex shop licences.
12.	The authority may; <ul style="list-style-type: none"> <li>• Grant the application; or</li> <li>• Make such variations as they think fit; or</li> <li>• Refuse the application.</li> </ul>
13.	Any person objecting to an application for a Sex Shop licence is required to give notice of their objection in writing to the local authority, not later than 28 days after the date of the application. No objections were received in relation to this application within the 28 day consultation period.
14.	An applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused may appeal within twenty-one days of the giving of written notice of the grounds of the refusal, to the Magistrates' Court.
15.	A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as <b>Appendix 6</b> .
16.	The Licensing Authority has made Regulations as to standard conditions which

	are set out as <b>Appendix 7</b> . 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.
17.	A copy of the Sex Establishment Licensing Policy is attached as <b>Appendix 8</b> .
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
1.	There are no financial implications.
<b><u>Property/Other</u></b>	
1.	Not applicable.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
1.	Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the City Councils power to determine an application to vary the terms, conditions or restrictions of a sex shop licence.
2.	<p>If the Sub-Committee determines to grant an application, it has power to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual premises concerned or standard conditions applicable to all sex establishments, or particular types of sex establishments.</p> <p>Examples of the matters that standard conditions may address can include, but are not restricted to:</p> <ul style="list-style-type: none"> <li>• The hours of opening and closing</li> <li>• Displays and advertisements on or in sex establishments</li> <li>• The visibility of the interior of a sex establishment to passers-by</li> <li>• Any change of use from one kind of sex establishment to another.</li> </ul> <p>If such standard conditions are introduced by the local authority, they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.</p>
<b><u>Other Legal Implications:</u></b>	
1.	<p><b>CRIME AND DISORDER ACT 1998</b></p> <p>Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.</p>
2.	<p><b>HUMAN RIGHTS ACT 1998</b></p> <p>The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.</p>

<b>POLICY FRAMEWORK IMPLICATIONS</b>	
1.	The decision to determine the application in the manner set out in this report is not contrary to the council's policy framework.

<b>KEY DECISION?</b>	No
----------------------	----

<b>WARDS/COMMUNITIES AFFECTED:</b>	
------------------------------------	--

--

**SUPPORTING DOCUMENTATION**

**Appendices**

1.	Application for a new Sex Shop licence made in respect of Adult Superstore By Hidden Assets, 437 Millbrook Road West, Southampton. SO15 0HX. - Page 5
2.	A copy of the current Sex Shop licence for Adult Superstore By Hidden Assets, 439 Millbrook Road West, Southampton. SO15 0HX. - Page 12
3.	A copy of the proposed plan. - Page 17
4.	A copy of the proposed shop frontage. - Page 18
5.	Current Shop Front - Page 19
6.	Procedure for hearing the application. - Page 20
7.	Standard Conditions - Page 22
8.	Sex Establishment Licensing Policy - Page 32

**Documents In Members' Rooms**

1.	None
----	------

**Equality Impact Assessment**

Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
---	----

**Privacy Impact Assessment**

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out?	No
--	----

**Other Background Documents**

**Equality Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
------------------------------	--

1.	None
----	------

# Application for a Sex Establishment Licence

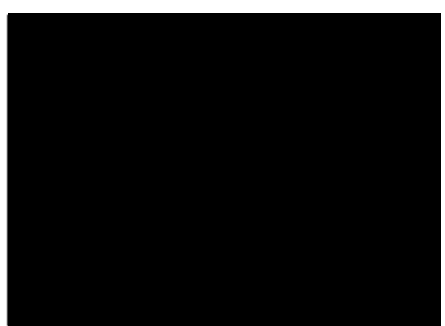
I/We hereby apply for the GRANT of a Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1983 as follows:

1.	<b>General information</b> (all applicants must complete this section)
	What type of licence are you applying for? A sex shop licence <input checked="" type="checkbox"/> A sex cinema licence <input type="checkbox"/> A sexual entertainment venue licence? <input type="checkbox"/> Are you applying as: (please tick): An individual <input type="checkbox"/> A registered company <input type="checkbox"/> A partnership <input type="checkbox"/> Please state your trading name:  Is this application for: (please tick): Grant of a new licence <input checked="" type="checkbox"/> renewal <input type="checkbox"/> variation <input type="checkbox"/> or transfer <input type="checkbox"/> of an existing licence? If renewal, variation or transfer, please provide the existing licence number:
<b>THE APPLICANT</b>	
2.	<b>Application by an Individual</b> (complete this section only if the application is by an individual)
	Title (please tick): Mr. <input checked="" type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other <input type="checkbox"/> (please state): Surname: SMITH Forenames: MATTHEW BARRY CAPLEN Maiden name or any other surnames you have been known by:  Date of birth: <span style="background-color: black; color: black;">[REDACTED]</span> Residential address: 28 PRIDEAUX BRUNE AVE GOSPORT Postcode: PO3 0UE Position/Role in the business: MANAGER
3.	<b>Application by a Partnership</b> (complete this section only if the application is by a partnership)
	You must supply information in respect of every partner – where there are more than two partners then please use a continuation sheet Title (please tick): Mr <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other (please state): Surname: Forenames: Maiden name or any other surnames you have been known by:  Date of birth: Residential address: Postcode:
	Title (please tick): Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other <input type="checkbox"/> (please state): Surname: Forenames: Maiden name or any other surnames you have been known by:  Date of birth: Residential address: Postcode:

<b>4. Application by a Registered Company</b> (complete this section <b>only</b> if the application is by a registered company)	
Registered company name: Registration number: Address of the company's registered office: Postcode:	
Please provide the following details for every director, shadow director and the company secretary – where necessary please use a continuation sheet.	
Role: Title (please tick): Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other <input type="checkbox"/> (please state): Surname: _____ Forenames: _____ Maiden name or any other surnames you have been known by:  Date of birth: Residential address: Postcode:	
Role: Title (please tick): Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. <input type="checkbox"/> Other <input type="checkbox"/> (please state): Surname: _____ Forenames: _____ Maiden name or any other surnames you have been known by: Date of birth: Residential address: Postcode:	
<b>5. Contact Details</b> (all applicants must complete this section)	
We will use your business address to correspond with you unless you indicate we should use your Residential address	
Business Address: 437 WILLBROOK RD WEST SUTTON Postcode: SO15 0FX	Telephone nos. Daytime: [REDACTED] Evening: [REDACTED] Mobile: [REDACTED]
Residential address: 28 PRIDEAUX BRUNE AVE GOSPORT Postcode: PO13 0UE	Email address: [REDACTED] Website address: [REDACTED]
Please use my Residential address for correspondence Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
If you have appointed a legal advisor or other agent to act for you, please give their details and reference number here:	
Name: Address: Post code Phone number: Email address: Reference no.:	

6.	<b>Criminal Convictions</b> (all applicants must complete this section)
	<p>Have you, any partners in the business, any directors of the company, or any other person mentioned in this application, ever been convicted of an offence or been the subject of any enforcement action in relation to a sex establishment?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (please tick)</p> <p>If "yes" you must provide details for each conviction/enforcement action, the date of the conviction/enforcement action, the name and location of the convicting court, offence of which you were convicted/the nature of the enforcement action and the sentence/penalty imposed:</p>          <p>(where necessary please use a continuation sheet)</p>
7.	Have any of the applicants previously been refused a sex establishment licence or had such a licence revoked? If so, give full details on a separate sheet
8.	If the applicant is a company, is the applicant a wholly owned subsidiary of another company or corporate body? If so, give full details, including full names and residential address of each director on a separate sheet
9.	If the applicant is a company, give the full names and residential addresses of each person who has a shareholding of more than 10% in the company on a separate sheet
10.	Will the business for which the sex establishment licence is sought be carried on for the benefit of any person other than the applicant? If so, give full details on a separate sheet. include company names, registration numbers, full names and residential address of each director or other person to benefit; include all persons with shareholdings greater than 10%
11.	Does the applicant operate any other sex establishments, whether licensed or not? If so, please state the name, address and type of sex establishment (sex shop/sex cinema/sexual entertainment venue) on a separate sheet

→ NEIL JOHN PHILLIPS



OPERATING AT THE SHOP  
 NEXT DOOR CURRENTLY UNDER  
 THE SAME PROPOSED NAME.  
 REASON FOR NEW LICENCE APPLICATION  
 IS NEW LANDLORD TO CURRENT SHOP,  
 AND LEASE NOT BEING RENEWED, SO  
 HAVE TO VACATE PREMISES

THE PREMISES, VEHICLE, VESSEL OR STALL	
12.	Is the application in respect of: a premises <input checked="" type="checkbox"/> a vehicle <input type="checkbox"/> a vessel <input type="checkbox"/> a stall <input type="checkbox"/>
	If the application is in respect of a vehicle, vessel or stall, where is it proposed that it shall be used?
13.	If the application is in respect of a premises, give the full postal address: 437 MILLBROOK RD WEST SOUTHAMPTON Postcode: SO15 0HX
14.	Is the whole of the premises to be used as a sex establishment? Yes <input checked="" type="checkbox"/> If not, give a description of the use of the remainder of the premises:  The names of those responsible for managing the remainder of the premises:
15.	State the nature of the applicant's interest in the premises, vehicle, vessel or stall (e.g. freehold owner, lessee, sub-lessee etc.) MANAGER
16.	If the applicant has tenure of the premises other than as freeholder, state: The name and address of the landlord: MARTIN CASTLE, TWINWAYS, ROMSEY RD, OVER, ROMSEY, SO51 6AE The amount of the annual rental; £ [REDACTED] The length of the unexpired term The length of notice required to terminate the tenancy
17.	What is the current use of the premises? UNUSED PRESENTLY, BUT WAS OPEN AS A SEX SHOP FOR OVER 10 YEARS UNTIL RECENTLY TERMS OF LEASE CURRENTLY UNDER DISCUSSION
18.	Is there planning permission for use of the premises, vehicle, vessel or stall as a sex establishment? Yes <input checked="" type="checkbox"/> If yes, give the date of that permission UNSURE, BUT OPERATED AS A SEX SHOP FOR YEARS LICENSED
19.	If there is no planning permission for use of the premises, vehicle, vessel or stall as a sex establishment, give full details as to whether and why the use of the premises is a lawful use:
20.	Are the premises, vehicle, vessel or stall licensed now or intended to be licensed under any other legislation e.g. the Licensing Act 2003? Yes If so, give the nature and reference number of each licence: N/A
21.	Is customer access to the premises, vehicle, vessel or stall: Directly from the street? Yes <input checked="" type="checkbox"/> From other premises? Yes If from other premises, give full details below:
22.	Are all points of customer access to be supervised at all times that the premises are open for business? Yes <input checked="" type="checkbox"/>
23.	Give full details of door control and supervision of access to the premises, including whether those controlling access are licensed by the SIA: COUNTER NEXT TO ENTRANCE FROM LOBBY AND CCTV. STAFF IN PLACE FOR IMMEDIATE CHECKS AT ALL TIMES
24.	Give details of the measures proposed to ensure that any person entering the premises is over 18 years of age, including what forms of ID will be accepted: PHOTOGRAPHIC ID TO BE REQUESTED FROM ANYONE APPEARING UNDER 25



25.	Give full details of any proposed exterior signage, advertising, window displays etc. at the premises - include photographs, illustrations etc.: <b>HEADBOARD SIGN AND NAME OF SHOP ON EXTERIOR WINDOWS (SAME AS ALREADY GRANTED ON EXISTING NEXT DOOR SHOP)</b>
26.	Give full details of the measures to be taken to comply with the Indecent Displays (Control) Act 1981, as amended, including the means by which persons outside the premises will be prevented from seeing the interior: <b>DOG LEGGED LOBBY AND FROSTED FRONT WINDOWS COMPLETELY BLOCKING ANY POSSIBLE VIEW</b>
27.	If the premises are to be used as a sexual entertainment venue, provide full details of:
(a)	the type and nature of the entertainment to be provided: <b>N/A</b>
(b)	arrangements for the separation of performers and audience: <b>N/A</b>
(c)	what contact, if any is to be permitted between performers and audience will be permitted: <b>N/A</b>
(d)	where sexual entertainment will take place (e.g. open areas, private booths or both): <b>N/A</b>
(e)	What measures will be put in place to supervise sexual entertainment, the conduct of performers and audience (e.g. security staff, CCTV, etc). Enclose copies of any codes of conduct or similar documents and clearly indicate the sanctions which will be taken by the management of the venue for any breaches of them: <b>N/A</b>
(f)	What measures are in place to ensure compliance with the law by the business and persons employed in the venue in whatever capacity, in particular in connection with human trafficking and modern slavery? <b>N/A</b>
<b>TYPE OF APPLICATION</b>	
28.	<b>Renewal</b> If the application is for renewal of an existing licence, have there been any changes in the business since the last grant of a licence? <b>Yes</b> If Yes, give full information here:
29.	<b>Variation</b> If variation of an existing licence is sought, give full details here:  Ensure that you include plans and other documents clearly showing what is proposed and indicating which existing licence conditions it is proposed should be varied.
30.	<b>Transfer</b> If the application is for transfer of an existing licence, do you enclose the signed consent of the previous licence holder to the transfer? <b>Yes</b>
31.	<b>Other information in support of the application</b> Use this part of the application to set out any additional information which you wish the licensing authority to take into account when considering the application: <b>NEW APPLICATION ONLY BEING SOUGHT BECAUSE OF EXISTING PREMISES BEING SOLD AND HAVING TO VACATE BY 30/03/19. I HAVE ALWAYS HAD AN EXTREMELY GOOD RELATIONSHIP AND FAULTLESS RECORD UNDER MY PREVIOUS LICENCE TERMS WITH THE COUNCIL AND LICENSING TEAM. SO AM JUST WANTING TO BASICALLY OPERATE UNDER THE EXACT SAME SYSTEM IN THE PREMISES NEXT DOOR.</b>

**MANAGEMENT**

32. Give details of the person who will be responsible for the day to day management of the business ("the manager"):

Full name: MATTHEW SMITH  
 Residential address: 28 PRIDEAUX BRUNE AVE GOSPORT  
 Postcode: PO13 0UE  
 Date of birth: [REDACTED]

33. Will the manager be based at the premises, vehicle, vessel or stall and will the management of the business be that person's sole and exclusive occupation? Yes ✓

34. Give details of the arrangements for the day to day management of the premises in the absence of the manager:

include full names, residential addresses and dates of birth of such persons.

35. On what days and at what times will the business will be open:

Day	From	To	Give details of any proposed exceptions to the hours given
	(use 24 hour clock)		
Monday	09.00	20.00	
Tuesday	09.00	20.00	
Wednesday	09.00	20.00	
Thursday	09.00	20.00	
Friday	09.00	20.00	
Saturday	09.00	20.00	
Sunday	CLOSED		

36. I enclose detailed scale plans, colour photographs and designs illustrating the interior and exterior of the premises, vehicle, vessel or stall giving, in particular, details of the proposals in respect of exterior signage and advertising, including the nature, content and size of signage and any images to be used (this will not be necessary in case of an application for transfer or renewal where no changes have taken place since the last grant of a licence.

TO BE ENTERED  
 IN  
 A FEW  
 DAYS.

**37. Payment**

(all applicants must complete this section)

I will pay the application fee for a sex establishment licence by:

Debit or credit card  Cheque  Cash  (please tick)

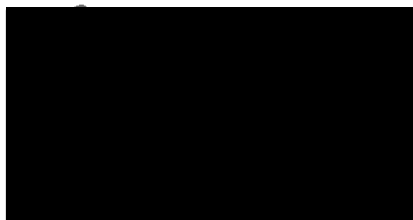
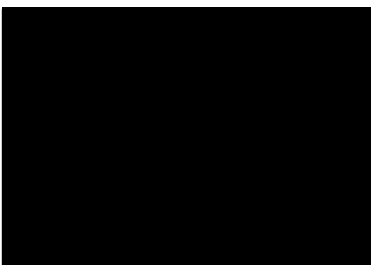
**38. Checklist**

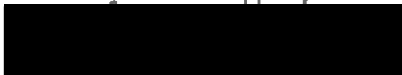
(all applicants must complete this section)

- The form is fully completed, signed and dated by each individual, partner or the company secretary
- The fee is enclosed
- Continuation sheets, clearly marked to indicate the question numbers, are enclosed
- Plans and other documents are enclosed

→ NEIL JOHN PHILLIPS [REDACTED]

JUSTIN STEVENS [REDACTED]



39.	<b>Declaration</b> (all applicants must complete this section)
	<p>The information contained in this form is true and accurate to the best of my knowledge and belief. I understand that if I make a false statement which I know to be false in any material respect or which I do not believe to be true in connection with an application for the grant of a sex establishment licence I will be guilty of an offence and liable on summary conviction to an unlimited fine.</p> <p>I understand that Southampton City Council may consult other agencies about my suitability to be granted a sex establishment licence, and that those other agencies may include other local authorities and the police.</p> <p>I understand that the purpose of the sharing of this data is to form a full assessment of my suitability to be granted a sex establishment licence. I also understand that the sharing of information about me may extend to sensitive personal data, such as data about any previous criminal offences. Some details will also be displayed in the council's public register of licences.</p> <p>I understand that the licensing authority may be required by law to disclose, from time to time, further information relating to applications and licences to the appropriate authorities for the purposes of law enforcement and the prevention of fraud.</p> <p>More detailed information about the Council's handling of your personal data can be found in its privacy policy, available online (<a href="http://www.southampton.gov.uk/privacy">http://www.southampton.gov.uk/privacy</a>), or on request.</p>
	An individual applicant (section 2) or all partners (section 3) or the company secretary (section 4) must complete this section
	Signed:  Dated <u>11/02/19</u> Name (please print) <u>M.B.C SMITH</u> Capacity of signatory: <u>MANAGER</u>
	Signed: _____ Dated _____ Name (please print) _____ Capacity of signatory: _____
	Signed: _____ Dated _____ Name (please print) _____ Capacity of signatory: _____
	Signed: _____ Dated _____ Name (please print) _____ Capacity of signatory: _____

**Licence Number**

2018/01113/19SEXE

**SEX ESTABLISHMENT LICENCE****LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SECTION 2**

SOUTHAMPTON CITY COUNCIL by virtue of the powers contained in section 2 and schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, hereby grants to:

**Matthew Barry Caplen Smith**

of the following address:

28 Prideaux-Brune Avenue  
Gosport  
Hampshire  
PO13 0VE

A licence to use the premises known as

**Adult Superstore By Hidden Assets**

and situate at

**439 Millbrook Road West  
Southampton  
SO15 0HX**

in the City of Southampton as a

**SEX SHOP**

This licence has effect from 19th day of March 2018 until

**18th day of March 2019**

The permitted hours of this licence:

Monday	09:00 - 20:00
Tuesday	09:00 - 20:00
Wednesday	09:00 - 20:00
Thursday	09:00 - 20:00
Friday	09:00 - 20:00
Saturday	09:00 - 20:00

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1 Regulations for Sex Establishments

Southampton City Council, in exercise of the powers conferred upon them by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 and of all other powers enabling them in that behalf make the following Regulations:

1.
  - (a) In these Regulations the following expressions that is to say "Sex Establishment", "Sex Shop", "Sex Cinema", "Sex Article", and "Vessel" shall have the meanings respectively assigned to them by Schedule 3 of the Act.
  - (b) 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.
    - "the Council" - means Southampton City Council.
    - "the licensed 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 under Regulations 2 and 3 hereof to be open to the public.
    - "sex establishment licence" - means a licence granted pursuant to Schedule 3 of the Act.

Conditions applicable to licences for Sex Establishments

2. The licensed premises shall be closed throughout Good Friday, Easter Monday, Christmas Day, Boxing and every Sunday and may be open only during the permitted hours prescribed in Regulation 3 hereof.
3. The permitted hours of opening, unless varied by special condition, shall be as follows:-
  - Mondays 9:00 a.m. to 8:00 p.m.
  - Tuesdays 9:00 a.m. to 8:00 p.m.
  - Wednesdays 9:00 a.m. to 8:00 p.m.
  - Thursdays 9:00 a.m. to 8:00 p.m.
  - Fridays 9:00 a.m. to 8:00 p.m.
  - Saturdays 9:00 a.m. to 8:00 p.m.
4. The licensed premises shall not be used for any purpose other than the business of a sex establishment.
5. The licensed premises shall not be open for the purposes for which the sex establishment licence is granted on any occasion when the Council may signify in writing to the licence holder, occupier or

other person having at the time the care and management of the premises, that the same should not be open.

6. No person who is or appears to be under the age of 18 or is known by the licence holder or any servant or agent of his present on the licensed premises to be under that age shall be admitted to or shall be permitted to remain on the licensed premises.

7. The licence holder: -

(a) shall display on the licensed premises in a conspicuous position his sex establishment licence;

(b) shall exhibit on those premises such notices in such form and in such position as may be prescribed;

(c) shall comply with any prescribed restriction with respect to the exhibiting of other written matter or of signs of any description on the licensed premises.

8. No facilities shall be provided in a sex shop for: -

(a) seeing any television broadcast or the replaying of any video tape or film or other like matter, except for a looped video recording, the content of which and location of the equipment shall be approved by the Licensing Manager, nor;

(b) hearing any sound broadcast tape or other like matter other than facilities for the reception of radio programmes broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority.

(c) A television, DVD player and video tape player may be installed in the licensed premises in a position approved by the Licensing Manager out of sight of customers for the sole purpose of quality control of recordings made available in the licensed premises.

9. No music, dancing or other entertainment whether of a like kind or not shall be provided or permitted, other than as permitted by Regulation 8 of these Regulations, and no refreshment of any kind shall be served on nor shall any facilities for the taking of such refreshment be provided upon the licensed premises.

10. The licence holder shall exhibit on the exterior of the licensed premises in a position visible to persons outside the premises a notice, in addition to his name, in not more than one place, in characters not exceeding three inches in height and consisting only of the words licensed sex shop or licensed sex cinema (as the case may be) and such indication, if any, as he thinks fit to give of the times at which the licensed premises are open. No other notices, unless pursuant to these Regulations, may be exhibited.

11. The licence holder shall exhibit in a conspicuous manner and in some conspicuous place inside the licensed premises and at the point of access to the licensed premises a notice stating that persons under the age of eighteen years are not admitted thereto.

12. The licence holder shall not display in any position visible to persons outside the premises any matter which does not comply with the Indecent Displays (Control) Act 1981.

13. The licence holder shall not permit any person other than persons employed by him, his servant or agent, statutory undertakers or, if applicable, his landlord to enter upon any part of the premises which are not available to the public in connection with the display, sale, hire, exchange, loan or demonstration of sex articles.

14. The licence holder shall not display any advertisement which is visible to persons outside the premises except as permitted by these Regulations or under the Act and no advertisements shall be displayed wherever visible which depict any article or thing intended for use in connection with or for the purpose of stimulating or encouraging acts of force or restraint which are or may be associated with sexual activity.

15. The licence holder shall ensure that the interior of the sex establishment shall not be visible to persons outside the premises.

16.

- (a) The exterior of the licensed premises shall be of materials approved by the Council
- (b) The exterior of the premises shall consist of material and colours of a discreet nature appropriate to the character of the locality and shall be in keeping with the appearance of other premises in the vicinity. There shall be no external advertisements nor shall the frontage contain displays of advertisements of any nature or permit the interior of the licensed premises to be viewed from outside.
- (c) Detailed proposals for the external appearance of the licensed premises shall be agreed with the Council's Licensing Manager within 14 days of the notification of the determination of the application for a licence and shall be subject to ratification by the Council's Licensing (General) Sub Committee prior to the commencement of business at the licensed premises.

17. No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the Licensing Manager and subject to planning permission.

18. The holder of a sex cinema licence shall observe such regulations and conditions as may be approved by the Council from time for cinemas having a licence under the Cinemas Act 1985 as shall be applied by the Council by special condition to the sex establishment licence, giving such reference to the said Cinema licence conditions as may be deemed appropriate and the regulations and conditions shall have the same force and effect as if the same were severally contained in these regulations.

19. The licence holder shall not knowingly allow the licensed premises to be the habitual resort of a reputed prostitute or the habitual resort or meeting place of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution.

20. If the Council notifies the licence holder, occupier or other person having at the time the care and management of the premises in writing by delivering notice at the licensed premises that any particular sex article, advertisement or matter shall not be displayed the same shall be withdrawn from view forthwith.

21. No film or video material shall be kept at the sex establishment except such film or video material that bears a reproduction of the Certificate of the British Board of Film Certification.

22. The licence holder shall comply with all fire and safety requirements of the Council and maintain and keep available for use all specified fire fighting equipment and extinguishers.

23. The external doors of the licensed premises shall be fitted with self-closing mechanisms and such mechanisms shall be maintained in good order. No external door shall be fixed in the open position at any time during the permitted hours. A lobby area will be installed, the style and design to be approved by the Licensing Manager.

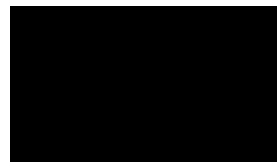
24. Applicants for the grant, renewal or transfer of a sex establishment licence or waiver thereof shall make their application on the form approved from time to time by the Council returnable to the office of the Solicitor to the Council together with the approved fee (where a sex establishment licence is required). A copy of the application in all cases shall be sent to the Chief Constable of Hampshire Constabulary, Central Police Station, Southern Road, Southampton not later than 7 days after the date of the application to the Council.

25. Applicants for the grant, renewal or transfer of a sex establishment licence shall advertise notice of their application in the form approved by the Council and in accordance with the prescribed dimensions by publishing the advertisement in a local newspaper circulating in Southampton not later than 7 days after the date of the application. A copy of the advertisement as published and date of publication shall be lodged with the Council forthwith.

26. Applicants for the grant, renewal or transfer of a sex establishment licence shall display a notice in the form approved by the Council and furnish two completed copies to the Council forthwith so that a copy may be sent to the appropriate public library. The Notice shall be displayed at the premises to be licensed for 21 days beginning with the date of the application to the Council and in a place where the notice can be inspected and conveniently read by the public from outside the premises.

27. A police officer or an authorised officer of the Council may at any reasonable time enter and inspect any premises in respect of which a sex establishment licence is for the time being in force.
28. The licence holder or some responsible person, being 21 years of age or over, nominated by him in writing shall be in attendance at the premises at all such times as the premises are open to the public and any nomination shall be produced to any police officer or authorised officer of the Council and give the name and address of the person nominated.
29. A closed circuit television system shall be installed in the licensed premises to the satisfaction of the Council's Licensing Manager. The system shall efficiently record the operation of the licensed premises and shall automatically indicate the date and time of the events recorded to a standard that would be acceptable as evidence in the Courts. All closed circuit television recordings shall be retained for a minimum of 28 days and shall be made available at the licensed premises for inspection by a police officer or an authorised officer of the Council.
30. The licensee shall notify the Council and Hampshire Constabulary of the name, address and date of birth of any manager or employee involved in the operation of the business at the licensed premises within seven days of them commencing employment. The City Council shall reserve the right to object to any person being involved in the operation of the business at the licensed premises where it considers them unsuitable, in particular by reason of relevant unspent criminal convictions.
31. The licensee shall produce and maintain a list of all stock carried at the licensed premises and shall make it available to a police officer or authorised officer of the Council on demand.
32. The rear door of the premises will be closed to customers save as required as an emergency exit in pursuance to Fire and Health and Safety Regulations.

Dated this 18th day of April 2018



**Licensing Manager**

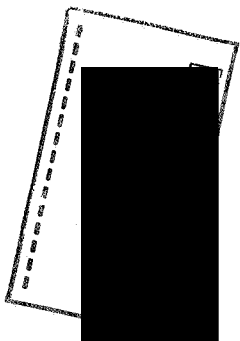
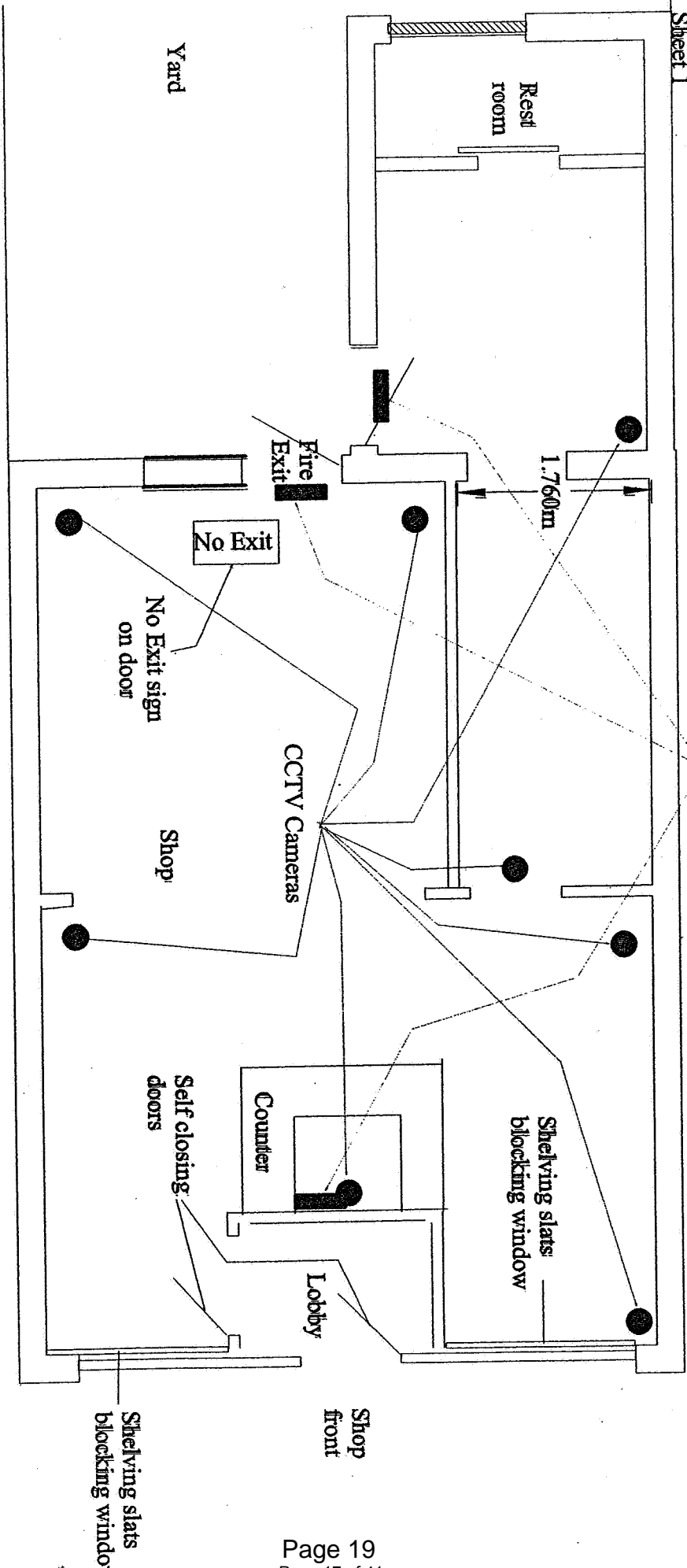
Licensing – Southampton City Council  
PO Box 1767  
Southampton  
SO18 9LA



Sheet 1

Emergency Lighting

### Shop Floor Plan Showing CCTV Camera layout







**Special Procedure for the Licensing (General) Sub-Committee – Applications for Sex Establishment licences**

One of the Council's Corporate Legal Advisors will be in attendance throughout the proceedings and he/she is there to advise Members. Sub-Committee Members may seek clarification on points of procedure at any time.

Please note that comfort breaks will be taken at the discretion of the Chair at appropriate points during the meeting.

**1. INTRODUCTION**

- ◆ Everyone to introduce themselves
- ◆ The Licensing Officer will introduce the report, including background information and any written objections received.
- ◆ Members' questions to the Licensing Officer

**2. OBJECTORS**

If Objectors (including Police) have attended indicating a wish to address the Sub-Committee the Sub-Committee will consider each request in light of its discretion to permit oral representations.

As a guide, such representations will only be permitted if appropriate in order to briefly summarise and expand upon the main points of objection as set out in written submissions. Mere recitation of previous written submissions will not be permitted, nor will the introduction of entirely new grounds of objection.

Questions of Objectors will not be permitted by any party (including Members).

**3. APPLICATION**

The applicant or their representative will outline the details of the application and call any witnesses in support.

Questions may be asked of the applicant or of any witnesses by:

Licensing Officer

Members of the Sub-Committee

The applicant may call supporting witnesses at their discretion during the presentation of their application. Questions may be asked by the Sub-Committee Members / Licensing Officer of such witnesses at any appropriate point in their presentation

If any written objections have been received the applicant or their representative will be invited to comment on them

**4. SUMMING UP**

The applicant or their representative will have a final opportunity to sum up their application.

**5. CONSIDERATION OF DECISION - CONFIDENTIAL SESSION**

Members of the Sub-Committee will retire to consider the decision. In doing so the Solicitor to the Sub-Committee and the Sub-Committee Administrator will retire with them, but will take no part in the discussion of the merits of the case or what the decision should be

Should the Solicitor to the Sub-Committee be required to clarify any points of law, these will be repeated in the public session.

**6. ANNOUNCEMENT OF DECISION**

Sub-Committee Members will return and the Chair of the Sub-Committee will deliver the decision in public session. The Licensing Officer will confirm this decision in writing to the Applicant within 7 days of the Sub-Committee decision, together with details of any relevant right of appeal.

*Note:* This procedure note is issued as a guide only – the order and conduct of business may be varied by the person presiding at any time in order to facilitate the determination of the matter, having regard to statutory restrictions and the rules of natural justice.

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

## **Part One – General Conditions**

### **1. Management of Premises**

- 1.1. 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.
- 1.2. 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.
- 1.3. 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.
- 1.4. 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.
- 1.5. 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.
- 1.6. To ensure compliance of 1.5 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.
- 1.7. 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.
- 1.8. Neither the Licence holder nor any employee or agent shall tout or solicit custom for the sex establishment immediately outside or in the vicinity of the licensed premises.
- 1.9. 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.

### **2. Conduct of the Premises**

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

### **3. Premises Interior and Layout**

- 3.1. The premises layout shall comply with deposited plans unless otherwise approved in writing by the council.
- 3.2. 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.
- 3.3. 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.

- 3.4. 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.
- 3.5. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
- 3.6. No part of the interior of the licensed premises shall be visible whatsoever to persons outside the premises.
- 3.7. No external advertising, words, signs, displays or illuminations shall be permitted unless previously approved by the council.
- 3.8. The external fabric, appearance and look of the licensed premises shall consist of materials and colours approved by the council in order to:
  - Ensure that the frontage is of a discreet nature
  - Ensure that it is appropriate to the character of the locality.

#### **4. CCTV**

- 4.1. A recording CCTV system shall be installed and fully operational whilst the venue is open to the public.
- 4.2. 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.
- 4.3. A record will be kept of any access made to information held on the system.
- 4.4. 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.
- 4.5. The system clock will be checked regularly for accuracy taking account of GMT and BST.
- 4.6. 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.
- 4.7. The CCTV system will have sufficient storage capacity for 31 days of good evidential quality images.

#### **5. CCTV Access**

- 5.1. 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.
- 5.2. All operators will receive training from the installer when equipment is installed and this training will be cascaded down to new members of staff.
- 5.3. An operator's manual will be available to assist in replaying and exporting data.
- 5.4. 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.

## **6. General**

- 6.1. 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.
- 6.2. The council may substitute, delete, vary or amend these conditions at any time.

## **Part Two – Additional Conditions for Premises Operating as Sex Shops**

- 6.3. 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.
- 6.4. The names of any and every employee working on the premises shall be displayed in a conspicuous position on the premises.
- 6.5. No public music or dancing shall be permitted on the premises.
  - 6.5.1. No alcohol shall be sold, offered or consumed by either staff or customers on the premises.
  - 6.5.2. No facilities to provide or consume food (hot or cold) by members of the public shall be permitted on the premises.

## **7. Hours of Opening and Closing**

- 7.1. 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.
- 7.2. The general permitted hours (unless otherwise varied by the council) for the use of any premises, as a sex shop shall be:
  - 7.2.1. Monday to Saturday inclusive - 0930 until 2000

## **8. Conduct of the Premises**

- 8.1. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
- 8.2. 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.
- 8.3. 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.
- 8.4. No film or video recording shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Certification and bears a certificate to that effect.

## **9. Premises Interior and Layout**

- 9.1. 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**

### **10. External Appearance of the Premises and Public Displays of Information**

- 10.1 The grant of a licence for a Sexual Entertainment Venue shall not be deemed to convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Schedule 3 of the Act.
- 10.2 The Premises shall be maintained in good repair and condition.
- 10.3 The Licensee shall ensure that the interior of the premises where sexual entertainment is offered shall not be capable of being seen from the outside of the premises.
- 10.4 At no time shall performances be capable of being seen from outside of the premises
- 10.5 Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
- 10.6 The copy of the licence and of any Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Act shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed aforesaid shall be suitably protected and the copy of any Regulations shall be retained in a clean and legible condition.

### **11. Control of Entry to the Premises**

- 11.1 Any individual employed on the premises to conduct a security activity (within the meaning of section paragraph 2(1) (a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority (for so long as that Authority is operative).
- 11.2 The Licensee must ensure that a sufficient number of authorised door supervisors are employed in the premises to check entrants; enforce the venue Drugs Policy, House Rules and Dancer Code of Conduct; complete the incident book as necessary and supervise customers and performers whilst sexual entertainment is provided.
- 11.3 No person under the age of 18 shall be admitted to the premises at any time that it is offering sexual entertainment and a notice to this effect shall be clearly displayed at the entrance(s) to the premises.
- 11.4 The Licensee will operate a Challenge 21 Policy whereby prospective customers who appears to be aged 21 or under will be refused admission unless they can prove that they are aged 18 or over by producing suitable photographic identification. Prominent notices must be clearly displayed to this effect at the entrance(s) to the premises.
- 11.5 Information shall be clearly displayed within the internal exit areas of the premises, reminding departing customers to behave in a responsible and appropriate way towards all persons, particularly women.
- 11.6 Prospective customers shall be informed of the House Rules.

### **12. Advertising**

- 12.1 The Licensee shall not permit the display on the exterior of the premises of photographs or other images, excluding trade marks or logos, which are unacceptable to the Council, and which may offend public decency.
- 12.2 The Licensee shall have regard to the Advertising Standards Authority CAP Code.
- 12.3 Where the Council has given notice in writing to the Licensee objecting to any public advertisement on the grounds that, if displayed, it would offend public decency or be

likely to encourage or incite crime and disorder that advertisement shall be removed or not be displayed.

### **13. CCTV**

- 13.1 The Licensee shall ensure that CCTV is installed and maintained to the reasonable satisfaction of the Police. The equipment will be password protected and have a constant and accurate time and date generation.
- 13.2 CCTV shall be installed in any private performance areas. Such areas will also be specifically monitored.
- 13.3 The recording system will be able to capture a minimum of 4 frames per second and CCTV images shall be retained for a period of at least 28 days and made available to a police officer or authorised Council officer (subject to the Data Protection Act 1998). The said images shall be down loaded on request and a copy provided to such an officer at the earliest practicable opportunity together with any software required to enable playback.
- 13.4 Records must be made on a weekly basis and retained for at least one year to demonstrate that the CCTV system is functioning correctly and that data is being securely retained. These will be made available to a police officer or authorised Council officer on request.
- 13.5 In the event of a technical failure of the CCTV equipment the Licensee must report the failure to the Southampton Police Licensing unit.

### **14. Performers**

- 14.1 Performers shall be aged not less than 18 years. The Licensee must maintain records of the names, addresses and dates of birth of performers including identity checks.
- 14.2 Performers must remain fully dressed in public areas and in all other areas except while performing.
- 14.3 No personal performances shall be given to customers seated at the bar or to standing customers.
- 14.4 Performers must re-dress when the performance has ended.
- 14.5 Performers must not perform a nude table dance unless in a supervised area and within sight of a floor supervisor.
- 14.6 Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card, which must be surrendered to the Licensee or their representative before leaving the premises.
- 14.7 There shall be no intentional full body contact between customers and performers during a performance except for the placing of money or tokens into the hand or garter of the performer at the beginning or conclusion of the performance.
- 14.8 Performers will stop immediately and move away from any customer who is offensive or attempts to touch them during a performance and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management.
- 14.9 No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.
- 14.10 Performers must not engage with the customer in any act of, or communication likely to lead to an act of, prostitution or solicitation.
- 14.11 The Licensee is to implement a policy for the safety of the performers when they leave the premises.

## **15. Customers**

15.1 Customers must remain seated during the entire performance of a private dance.

15.2 Customers must remain fully dressed at all times.

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

15.3 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;

15.4 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.

15.5 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.

15.6 Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.

15.7 A policy of random searches of persons entering the premises shall be operated.

15.8 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.

15.9 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.

15.10 The premises shall subscribe to an approved radio system and radios shall be operational at all times the premises is open to the public.

## **16 External Appearance of the Premises and Public Displays of Information**

16.1 The exterior of the premises shall not contain any displays or depictions of the human form, or any imagery that suggests or indicates relevant entertainment takes place at the premises, or other language stating the nature of such activities, including use of the word "nude". The condition does not prevent the use of the words "Licensed Sexual Entertainment Venue" on a single plate in characters no higher than 10 cm at the entrance to the premises.

16.2 Any external displays or advertising may only be displayed with the prior approval of the Council.

16.3 The prices for entrance and any compulsory purchases within the venue shall be clearly displayed on the exterior of the premises.

16.4 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.

16.5 Rules for customers shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.

16.6 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.

16.7 Performers may not stand in any lobby, reception or foyer areas or outside the premises

entrance for the purposes of greeting customers or encouraging customers to enter the venue.

16.8 The use of cruising cars by the premises to solicit for custom and/or transport people to or from the premises is prohibited.

16.9 The use of flyers and similar promotional material for the premises is prohibited.

## **17 Conduct of Performers and Rules relating to performances of sexual entertainment**

17.1 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.

17.2 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 the Code of Conduct for Dancers included within this policy.

17.3 No changes shall be made to the Dancer's Code of Conduct without the prior written consent of the council and the Police.

17.4 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.

17.5 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.

17.6 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.

## **18 Code of Conduct for Customers**

18.1 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.

18.2 The code shall include the basic criteria as set out in the Code of Conduct for Customers included within this policy.

18.3 The Code of Conduct for Customers shall be displayed in prominent positions throughout the licensed premises so that it is visible to all patrons.

18.4 No changes shall be made to the Code of Conduct for Customers without the prior written consent of the council and the Police.

18.5 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.

18.6 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.

18.7 On any occasion whereby a customer breaches the Code of Conduct, such details shall be recorded in the incident log.

18.8 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.

## **19 Disciplinary Procedure for Performers**

19.1 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.

- 19.2 All performers shall sign an acknowledgement that they have received a written copy of the disciplinary procedure and have read and understood its contents.
- 19.3 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.

## **20 The Protection of Performers and the Prevention of Crime on the Premises**

- 20.1 Performers shall be provided with secure and private changing facilities.
- 20.2 All entrances to private areas to which members of the public are not permitted access shall have clear signage stating that access is restricted.
- 20.3 Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.
- 20.4 The Licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work.
- 20.5 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.
- 20.6 There must be a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place.
- 20.7 Any private booths shall be fitted with a panic button or security alarm.

## **21 Record Keeping and Management**

- 21.1 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.
- 21.2 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.
- 21.3 Employment records for performers and staff shall be kept for a minimum of 6 months following the cessation of their employment.
- 21.4 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.
- 21.5 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.

## **22 Dress Code**

- 22.1 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**

## **23 Film Exhibition**

- 23.1 No film shall be exhibited unless:
- 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

- The film has been passed by the council as U, PG, 12, 15, 18 or RESTRICTED (18).
- 23.2 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.
- 23.3 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.
- 23.4 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.
- 23.5 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.
- 23.6 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.
- 23.7 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.
- 23.8 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:

**SOUTHAMPTON CITY COUNCIL**

*(Insert title of film here)*

***Has been passed by Southampton City Council as***

*(insert the definition of the category and the category assigned)*

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

**SOUTHAMPTON CITY COUNCIL**

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

- 23.10 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.

**24 General**

- 24.1 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.



# Sex Establishment Licensing Policy

## 1. Introduction

- 1.1. Southampton City Council as Licensing Authority has a statutory duty to administer the licensing regime in accordance with the law, not in accordance with any moral standpoint and therefore will not take into account any unrelated 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. Southampton City Council 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.
- 1.2. 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

## 2. Background Information

- 2.1. The licensing authority recognises that the entertainment industry in Southampton is a major contributor to the local economy. It attracts tourists and visitors, makes for vibrant communities and is a major employer. Commercial occupiers of premises have legitimate expectations for an environment that is attractive and sustainable for their businesses.
- 2.2. The city also has a substantial residential population, whose amenity the licensing authority has a duty to protect. In some areas local residents are affected by an increase in the concentration of entertainment uses and longer hours of operation.
- 2.3. Southampton is the south coast's regional capital with a population of over 236,600 in an area of 50 square km. The dynamic and vibrant city is forward-looking, balancing steady growth as a prosperous commercial centre with a high quality of life for its citizens. Southampton has been voted one of the most pleasant places to work in the UK, and is the gateway to a wide range of world-class features from the Solent with its maritime opportunities to the new national park in the New Forest.
- 2.4. Southampton boasts the south's largest concentration of major companies and is home to some of the UK's biggest brands, from Ordnance Survey, Carnival, Skandia Life to HSBC. Commercially, Southampton's success is also notable. The West Quay shopping centre opened in 2000 and in the years since, Southampton is 15th nationally in the table of shopping destinations. IKEA opened its first UK city centre store in 2009. Additionally, it is home to two universities, the University of Southampton and Southampton Solent University and has a student population exceeding 35,000.
- 2.5. Southampton is the largest city in southeast England outside London, and is seeing expansion in important emerging sectors, including media and creative industries, business and financial services, marine engineering, tourism and defence applications. Southampton has a rich heritage, with a famous seafaring history as an important Roman and then Saxon port. The Old Town is surrounded by some of the best-preserved



medieval walls in the country. Monuments commemorating links with Henry V, the Pilgrim Fathers and RMS Titanic can be found around the city.

- 2.6. 2.4 million people live within an hour's drive, with over half a million within the "travel-to-work" area. Southampton's position in the centre of the south coast offers a wealth of advantages. Southampton is the region's cultural heart with a nationally renowned art gallery and first class venues for opera, theatre, music and cinema. Southampton is the south's principal media centre: the BBC and radio and regional newspapers are all based in the city region. There are plans for significant new performance, exhibition and studio space in the city's "Cultural Quarter" which has been awarded an Arts Council grant of £7.5 million. The Council is also moving forward with long-standing plans for a multi-use entertainment, conference and leisure venue in the city and significant improvements to the waterfront adjacent to Royal Pier and Mayflower Park.
- 2.7. The city and Port of Southampton is at the heart of the country's international cruise industry and enjoys a growing market with over 1.5 million cruise ship passengers passing through the port annually.
- 2.8. Southampton lies at the very centre of the south coast's communications network, providing excellent links to national and international destinations through Southampton International Airport and the Port of Southampton. The city maintains a strong international profile and has forged close commercial and cultural ties with European and Far Eastern centres.
- 2.9. At the time of drafting this policy, four licensed sex shops are operating in the city.

### **3. Definitions**

- 3.1. For the purposes of this policy, the following definitions will apply:
- 3.2. **Sex Shop** (*paragraphs 4(1) &(2), Schedule 3 of the 1982 Act*)
- 3.2.1. Any premises, vessel, vehicle or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:
  - Sex articles; or
  - Other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.
- 3.3. 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.
- 3.4. **Sex Article** (*paragraphs 4(3) & (4), Schedule 3 of the 1982 Act*)
- 3.4.1. Anything made for use in connection with, or for the purpose of stimulating or encouraging:
  - Sexual activity; or
  - Acts of force or restraint which are associated with sexual activity; and anything to which the sub-paragraph below applies.
  - This sub-paragraph applies:
    - To any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
    - To any recording of vision or sound, which is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or is concerned primarily with the portrayal of, or primarily deals

with or relates to, genital organs, or urinary or excretory functions.

3.5. **Sex Cinema** (*paragraphs 3(1) & (2), Schedule 3 of the 1982*)

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

- Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –
  - Sexual activity; or
  - Acts of force or restraint which are associated with sexual activity; or
  - Are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,
- But does not include a dwelling-house to which the public is not admitted.

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

- 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.
- 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.

3.6. **Sexual Entertainment Venue** (*paragraphs 2A(1) &(2), Schedule 3 of the 1982 Act as amended by section 27 of the 2009 Act*)

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

3.6.2. 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).

3.6.3. In terms of considering what constitutes “relevant entertainment” each case shall be judged on its merits but 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.

3.6.4. 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.

3.6.5. 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:-
  - No relevant entertainment has been provided on more than 11 occasions within a 12 month period;
  - No such occasion has begun within a period of one month beginning with the end of the previous occasions; and
  - 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.

#### **4. Mandatory Grounds for Refusal of an Application** *(paragraph 12(1), Schedule 3 of the 1982 Act)*

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

4.1.1. That the applicant:

- Is under the age of 18;
- Is for the time being disqualified from holding a sex establishment licence;
- 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;
- Is a body corporate which is not incorporated in an EEA state;
- 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.

#### **5. Discretionary Grounds for Refusal of an Application** *(paragraph 12(3), Schedule 3 of the 1982 Act)*

5.1. The 1982 Act also sets out four discretionary grounds for refusing a sex establishment licence. An application for transfer of a licence may be refused on either or both grounds i. and ii. set out below.

- i. The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- ii. 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;
- iii. 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;
- iv. The grant or renewal would be inappropriate, having regard –
  - To the character of the relevant locality;
  - To the use to which any premises in the vicinity are put;
  - To the layout, character or condition of the premises, vehicle, vessel or stall

in respect of which the application is made.

## **5.2. Suitability of applicant**

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

5.2.2. The Licensing Authority will wish to be satisfied that:

- The applicant is sufficiently trustworthy to operate 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.

5.2.3. 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.

5.2.4. 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.

5.2.5. 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 credible management structure to demonstrate the ability to comply with operating conditions incorporating such matters as:
  - Managerial competence
  - Presence
  - 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)

5.2.6. 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.

### **5.3. Suitability of the manager of the business or other beneficiary**

5.3.1. 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.

### **5.4. Number of sex establishments**

5.4.1. Southampton City Council 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.

### **5.5. Character of the relevant locality**

5.5.1. 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.

5.5.2. 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.

### **5.6. Use of premises in the vicinity**

5.6.1. 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 5.4 above.

5.6.2. 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.

- 5.6.3. 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).
- 5.6.4. 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.

## **5.7. Layout, character or condition**

- 5.7.1. 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;
- 5.7.2. 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.

## **6. Application Process**

- 6.1. Application forms are available from the Council's website at:  
[www.southampton.gov.uk/sexest/](http://www.southampton.gov.uk/sexest/)
- 6.2. Upon receipt of an application for the grant, renewal, transfer or variation of a licence, the Licensing Authority will consult, at minimum, with the following bodies/individuals and will have regard to any observations received from them:
- Hampshire Constabulary
  - Hampshire Fire and Rescue Service
  - Southampton Safeguarding Children Board
  - Southampton City Council's Planning and Development Manager
- 6.3. An application for the grant, renewal, transfer or variation of a licence must be formally advertised in two specific ways:
- Within 7 days after the date of application, the applicant must arrange for a public notice to be published in a local newspaper;
  - 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 twenty-one days starting with the date of the application.
- 6.4. 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.
- 6.5. The applicant must also send a copy of the application to the Chief Officer of Police for the local authority area no later than seven 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.

## **7. Consideration of an Application**

- 7.1. The Licensing Authority will have regard to all information provided by an applicant in support of an application.
- 7.2. 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 twenty-eight 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 4 and 5 of this policy. Objections based solely on moral grounds/values will not be considered.
- 7.3. The Licensing Authority will notify the applicant, in writing, of the general terms of any objection received within the twenty-eight day period allowed for objections.
- 7.4. 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.

## **8. Determining an Application**

- 8.1. 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.
- 8.2. The Licensing Authority will consider each application on its individual merits.
- 8.3. The Licensing Sub-Committee will retire at the end of the hearing to make its decision on the facts of the case in private.
- 8.4. 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.

## **9. Hearings**

- 9.1. 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 ten days' notice of the proposed date for hearing and more where possible to do so.
- 9.2. 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.

- 9.3. Persons objecting to applications will also be given the opportunity to appear at the hearing to discuss their objections.
- 9.4. 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.
- 9.5. 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.

## **10. Appeals**

- 10.1. 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.
- 10.2. However, appeals against mandatory refusals (see section 4 of this policy document) can only be lodged on the basis that the mandatory ground does not apply to the appellant.
- 10.3. 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.
- 10.4. The time limit for lodging an appeal to the Magistrates' Court is twenty-one 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.
- 10.5. The 1982 Act also provides for further appeal to the Crown Court.

## **11. Duration of Licences**

- 11.1. 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.

## **12. Licence Conditions**

- 12.1. 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.
- 12.2. 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.
- 12.3. 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.

### **13. *Waiving of the need for a Sex Establishment Licence*** (paragraph 7, Schedule 3 of the 1982 Act.)

- 13.1. 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.
- 13.2. 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.
- 13.3. 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.
- 13.4. 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.

### **14. *Exchange of Information***

- 14.1. 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.
- 14.2. 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 fulfil its statutory objective of reducing crime in the area.

### **15. *Enforcement and Compliance***

- 15.1. There are serious penalties for breaching the law relating to the control and supervision of sex establishment premises. Historically, Southampton City Council 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.
- 15.2. 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.

This page is intentionally left blank