



**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE LICENSING COMMITTEE**

**MONDAY 14TH SEPTEMBER 2015 AT 6.00 P.M.**

**THE COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE,  
BROMSGROVE**

MEMBERS: Councillors B. T. Cooper (Chairman), M. T. Buxton,  
J. M. L. A. Griffiths, P. Lammas, K.J. May, C. M. McDonald,  
S. R. Peters, S. P. Shannon, P.L. Thomas, L. J. Turner and  
S. A. Webb

**AGENDA**

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest  
  
To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
3. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 8th June 2015 (Pages 1 - 4)
4. Draft Sex Establishment Licensing Policy - Approval for Consultation (Pages 5 - 40)
5. Deregulation Act 2015 - Policy on Duration of Hackney Carriage and Private Hire Driver Licences and Private Hire Operator Licences (Pages 41 - 46)
6. Licensing Committee Work Programme 2015/2016 (Pages 47 - 48)

7. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS  
Chief Executive

The Council House  
Burcot Lane  
BROMSGROVE  
Worcestershire  
B60 1AA

27th August 2015

# Agenda Item 3

## BROMSGROVE DISTRICT COUNCIL

### MEETING OF THE LICENSING COMMITTEE

MONDAY 8TH JUNE 2015 AT 6.06 P.M.

PRESENT: Councillors M. T. Buxton, J. M. L. A. Griffiths (Vice-Chairman in the Chair), H. J. Jones (substituting for B. T. Cooper), P. Lammas, K.J. May, S. R. Peters, P.L. Thomas, L. J. Turner and S. A. Webb

Officers: Mrs. V. Brown, Mr. D. Etheridge, Mrs. A May and Mrs. P. Ross

1/15 **ELECTION OF CHAIRMAN**

**RESOLVED** that Councillor B. T. Cooper be elected as Chairman for the ensuing municipal year.

2/15 **ELECTION OF VICE-CHAIRMAN**

**RESOLVED** that Councillor J. M. L. A. Griffiths be elected as Vice-Chairman for the ensuing municipal year.

3/15 **APOLOGIES**

Apologies for absence were received from Councillors B. T. Cooper and S. P. Shannon.

4/15 **DECLARATIONS OF INTEREST**

Councillor H. J. Jones declared an Other Disclosable Interest as a Personal Licence Holder and Designated Premises Supervisor.

5/15 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 23rd March 2015 were submitted.

**RESOLVED** that the minutes be approved as a correct record.

6/15 **GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES - APPROVAL FOR CONSULTATION**

Consideration was given to a report informing Members of the required consultation on the Statement of Gambling Principles, in accordance with

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Licensing Committee  
8th June 2015

Section 349 of the Gambling Act 2005, the Council were required to prepare and publish a Statement of Principles every three years.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS) introduced the report and informed the Committee that the Gambling Act required the Council to carry out a review of its Gambling Act 2005 – Statement of Gambling Principles every 3 years; and Members were being asked to approve the draft revised Statement of Principles, as detailed at Appendix 1 to the report, for the purpose of consultation with relevant parties, as detailed in paragraph 3.18 in the report.

Members were further informed that there had been no significant changes to the provisions of the Gambling Act 2005 since the last Statement of Principles took effect. The Gambling Commission were currently carrying out consultation on revised guidance to licensing authorities, but it was not clear when the revised version of this guidance would be published. Given the requirement to prepare and publish a new Statement of Principles by 31st January 2016, the Council could not wait for publication of the revised guidance before proceeding with this consultation.

The report detailed the minor amendments that had been included in the revised draft Statement of Principles.

It was proposed that the consultation would take place over a period of 8 weeks, with the consultation also made available for comment via the Council's website and publicised via social media and the local press. Responses to the consultation would be reported back to the Licensing Committee prior to its implementation in January 2016.

Councillor S. R. Peters informed the Senior Licensing Practitioner that Parish Council's did not hold meetings during the month of August and could officers take this into account so as it did not hamper their ability to respond to the consultation. The Senior Licensing Practitioner thanked Councillor S.R. Peters for making him aware of this and agreed that officers would take this into account and should Members approve the revised draft Statement of Principles, officers would look to start the consultation process as soon as possible.

## **RESOLVED:**

- a) that the revised draft Statement of Principles, as detailed at Appendix 1 to the report, be approved for the purpose of consultation with relevant parties, and
- b) that the findings of the consultation be reported to the Committee prior to the implementation of the Statement of Principles in January 2016.

7/15

## **DEREGULATION ACT 2015 - UPDATE ON LICENSING IMPLICATIONS**

Members were asked to note the contents of a report which provided an update on the Deregulation Act 2015 and the licensing implications contained within the legislation.

The Senior Licensing Practitioner introduced the report and informed the Committee that the Deregulation Act 2015 contained some provisions that related to the deregulation of licensing functions carried out by Worcestershire Regulatory Services on behalf of Bromsgrove District Council. Those functions affected were carried out under the Licensing Act 2003 (alcohol, entertainment and late night refreshment licensing) and taxi and private hire licensing.

The Act received Royal Assent on 26th March 2015 and a number of commencement dates had been confirmed for various provisions included within the Act. The table, detailed at Appendix 1 to the report, provided a summary of the relevant provision included within the Act along with information on commencement dates and the actions to be taken by the Council.

**RESOLVED** that the Deregulation Act 2015 update report on licensing implications and Appendix 1 to the report be noted.

8/15

## **LICENSING ANNUAL REPORT**

The Committee considered the Licensing Annual Report 2014/2015 which provided an overall view of the activities, under the Licensing Act 2003, Gambling Act 2005 and other aspects of Licensing, and to inform the Committee on any issues anticipated in the ensuing year. The report detailed the work carried out by Worcestershire Regulatory Services (WRS) Enforcement and Licensing Teams for Bromsgrove District Council.

The Senior Licensing Practitioner introduced the report and in doing so informed the Committee that since 1st June 2010 the WRS Licensing Team had taken over operational delivery of the statutory functions of licensing and enforcement of regulated activities and businesses operating under the Licensing Act 2003 on behalf of Bromsgrove District Council.

In April 2014 a new Statement of Licensing Policy under the Licensing Act 2003 was published following consultation. The Gambling Act 2005 Statement of Principles was last published with effect from 31st January 2013 and was therefore due to be reviewed with a new Statement of Principles to be published by 31st January 2016.

The report also detailed the number of new licences issued and granted by Bromsgrove District Council in 2014/2015, under the Licensing Act 2003; the number of premises which had continued to be licensed by the Council under the Gambling Act 2005. The number of Hackney Carriage and Private Hire licensed vehicles and drivers had remained relatively steady during 2014/2015.

In October 2013 the Scrap Metal Dealers Act 2013 came into force within the District. Under this new legislation the Council was responsible for issuing mobile scrap metal collector licences and scrap metal site licences. The Council had issued five site licences and 9 mobile collector licences. The

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Licensing Team were responsible for enforcing the legislation in partnership with the Police and Environment Agency.

In response to questions raised by Members, officers informed the Committee that the Police had been very proactive and that certain areas had been targeted in order to prevent scrap metal theft. With regards to enforcement the Police had taken the lead, as under the Road Traffic 1988, the Police had the power to stop vehicles which WRS officers did not possess.

Councillor M. T. Buxton queried why the Annual Report 2014/2015 had not included any reference to the successful introduction of the Site Management Agreement between Bromsgrove District Council and the Public Fundraising Regulatory Association (PFRA); which regulated face to face fundraising by way of direct debit in Bromsgrove Town Centre. For the benefit of new Licensing Committee Members, the Senior Licensing Practitioner gave a brief overview of the Site Management Agreement and in response to Councillor Buxton agreed this had been an oversight on his behalf.

Members agreed that the Annual Report 2014/2015 be amended to include information on the Site Management Agreement between Bromsgrove District Council and the Public Fundraising Regulatory Association (PFRA).

**RESOLVED:**

- a) that, as detailed in the preamble above, information on the Site Management Agreement between Bromsgrove District Council and the Public Fundraising Regulatory Association (PFRA) be included in the Annual Report 2014/2015;
- b) that the amended Annual Report 2014/2015 be issued as a supplementary agenda item; and
- c) that the Licensing Annual Report 2014/2015, as presented, be noted.

9/15

**LICENSING COMMITTEE WORK PROGRAMME 2015/2016**

The Committee considered the Licensing Committee Work Programme for 2015/2016.

**RESOLVED** that Licensing Committee Work Programme 2015/2016 be noted.

The meeting closed at 6.45 p.m.

Chairman

## LICENSING COMMITTEE

14<sup>th</sup> September 2015

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### DRAFT SEX ESTABLISHMENT LICENSING POLICY

Relevant Portfolio Holder	Councillor Peter Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ivor Pumfrey – Acting Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

#### 1. SUMMARY OF PROPOSALS

Bromsgrove District Council does not currently have an adopted Policy on the licensing of Sex Establishments and the Licensing Committee is asked to consider a draft Policy and approve it for the purposes of consultation with relevant stakeholders and the general public.

#### 2. RECOMMENDATIONS

**Members are asked to RESOLVE;**

**To approve the draft Sex Establishment Licensing Policy (attached at Appendix 1) for the purpose of consultation with relevant stakeholders and the general public.**

#### 3. KEY ISSUES

##### Financial Implications

- 3.1 The costs involved in carrying out the consultation will be met by existing budgets held by Worcestershire Regulatory Services.

##### Legal Implications

- 3.2 The Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) as amended allows local authorities to adopt provisions concerning the regulation of sex establishments. Under the Act there is no legal requirement for the Council to adopt a policy on how it proposes to license sex establishments under the Act. However, it is considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions are carried out.

### Service / Operational Implications

- 3.3 The Council does not currently have an adopted Policy on the licensing of Sex Establishments and the Licensing Committee is asked to consider a draft Policy and approve it for the purposes of consultation with relevant stakeholders and the general public.
- 3.4 The Local Government (Miscellaneous Provisions) Act 1982, when originally enacted, allowed for the licensing of Sex Establishments (i.e. sex shops and sex cinemas) by those local authorities, like Bromsgrove District Council, that adopted Schedule 3 of the Act.
- 3.5 The Council resolved to adopt the original provisions at a meeting on 3<sup>rd</sup> July 1984.
- 3.6 On 15<sup>th</sup> September 2010 the Council resolved to adopt the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which were amended by virtue of Section 27 of the Policing and Crime Act 2009.
- 3.7 The adoption of the provisions as amended by the Policing and Crime Act 2009 meant that “sexual entertainment venues” in the District are subject to the same licensing requirements as sex shops and sex cinemas.
- 3.8 The new controls strengthened the role that local communities can play in deciding whether, for example, a lap dancing premises is appropriate for the locality. The adoption of the amended provisions brought lap dancing and other similar premises in line with other sex establishments such as sex shops and sex cinemas and recognised that local people have legitimate concerns about where such premises are located.
- 3.9 Despite having adopted controls over sex establishments, the Council does not currently have an adopted Policy on the licensing of sex establishments under the Local Government (Miscellaneous Provisions) Act 1982.
- 3.10 Members of the Licensing Committee are asked to consider a draft Policy and approve it for the purposes of consultation with relevant stakeholders and the general public.
- 3.11 A draft Sex Establishment Licensing Policy is attached at Appendix A. The draft Policy sets out how Bromsgrove District Council would approach its licensing functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).



## LICENSING COMMITTEE

14<sup>th</sup> September 2015

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- 3.12 It will provide guidance to Members and Officers when considering applications and will inform potential applicants, relevant stakeholders and the general public of the principles which will be applied by the Council when carrying out its licensing functions.
- 3.13 The draft Sex Establishment Licensing Policy would be subject to consultation with relevant stakeholders and the general public.
- 3.14 Following consultation the Licensing Committee would consider the responses received and approve a finalised Policy

#### **4. RISK MANAGEMENT**

- 4.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal. Consultation with relevant stakeholders will minimise the risk of challenge.

#### **5. APPENDICES**

Appendix 1 – Draft Sex Establishment Licensing Policy

#### **AUTHOR OF REPORT**

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Worcestershire Regulatory Services

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**Bromsgrove**  
District Council  
[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

# Sex Establishment Licensing Policy

Adopted with effect **DATE**

## FOREWORD

Bromsgrove District Council is situated in the County of Worcestershire, which contains six District Councils in total. The Council area has a population of approximately 93,600 and in terms of area it covers approximately 84 square miles.

The Council area is mainly rural in character (90% of the area is classed as Green Belt) with two central urban areas of Bromsgrove Town and Rubery.

Whilst it is only 14 miles from central Birmingham, the Clent and Lickey Hills provide an important dividing line between the industrial Midlands and the rural landscape of North Worcestershire.

Bromsgrove District Council's overall vision is "working together to build a district where people are proud to live and work, through community leadership and excellent services." This policy statement accords with our vision and Council objectives.

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## 1. INTRODUCTION

### 1.1 The Policy

1.1.1 This document states Bromsgrove District Council's policy on the regulation of sex establishments.

1.1.2 This Policy was consulted upon between DATE and DATE and approved on DATE.

1.1.3 Consultation was carried out with local residents, relevant trade organisations, the Chief Officer of Police and other relevant organisations.

1.1.4 In developing this Policy Statement, we took into account the legal requirements of the 1982 Act and our duties under:-

- (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the District;
- (b) The Regulators Compliance Code (set out under the legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- (c) The Provisions of Services Regulations 2009 to ensure requirements are:
  - (i) Non-discriminatory
  - (ii) Justified by an overriding reason relating to the public interest
  - (iii) Proportionate to that public interest objective
  - (iv) Clear and unambiguous
  - (v) Objective
  - (vi) Made public in advance, and
  - (vii) Transparent and accessible.

1.1.5 This Policy should be read in conjunction with, and without prejudice to, other existing National and European Union legislation, such as the Human Rights Act 1998 and the Disability Discrimination Act 1995.

### 1.2 The Law

1.2.1 The Local Government (Miscellaneous Provisions) Act 1982 Bromsgrove District Council adopted Schedule 3 on 3<sup>rd</sup> July 1984. This meant that the Council controlled and regulated the operation of "sex shops" and "sex cinemas" within the district from this date.

1.2.2 The Local Government (Miscellaneous Provisions) Act 1982 was amended by the Policing and Crime Act 2009 to extend the licensing regime to include "sexual entertainment venues" within the definition of sex establishments. Bromsgrove District Council adopted the amended provisions of Schedule 3 on 15<sup>th</sup> September 2010. This meant that the Council now controls and regulates all types of sex establishment – sex shops, sex cinemas and sexual entertainment venues.

1.2.3 A list of definitions of the key terms used throughout the legislation and this Policy can be found at **Annex A** to this Policy.

- 1.2.4 No sex establishment can operate unless it has obtained a licence from the Council – any such licence will contain conditions that will restrict how that premises may trade.
- 1.2.5 The Council does not take any moral stand in adopting this Policy. The Council recognises that Parliament has made it lawful to operate Sex Establishments, and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

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## **LICENCE APPLICATIONS**

### **2.1 Right to Waiver**

- 2.1.1 Bromsgrove District Council may, upon application, waive the requirement for a licence in any case where it considers that to require a licence would be unreasonable or inappropriate.
- 2.1.2 Each application for a waiver will be considered on its own merits, however, any establishment that would normally require licensing under the provisions of the Act is unlikely to be granted a waiver other than in exceptional circumstances.
- 2.1.3 A waiver may be for such period as the Council think fit. Where the Council grant an application for a waiver, it will give the applicant for the waiver notice that they have granted the application.
- 2.1.4 The Council may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

### **2.2 Application Details**

- 2.2.1 The applicant will be required to make their application in accordance with Clause 10, Schedule 3, of the Act.
- 2.2.2 To apply for the grant of a new sex establishment licence, an applicant must submit:-
- A completed application form;
  - A plan to the scale of 1:100 of the premises to which the application relates showing (inter alia) all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street.
  - A site plan scale 1:1250.
  - Drawings showing the front elevation as existing and as proposed to a scale of (1:50).
- 2.2.3 All applications must be accompanied by the relevant fee. In the event of an application being refused, the application fee may be refunded less an appropriate charge for the administrative process undertaken in determining the application, including any hearing before the Licensing Committee.
- ### **2.3 Consultation Arrangements - Public**
- 2.3.1 The applicant must advertise any application for grant of a new licence or renewal, transfer or variation of an existing licence in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).



## 2.3.2 This states that:-

- An applicant for the grant, renewal or transfer of a licence shall give public notice of the application.
- Notice shall in all cases be given by publishing an advertisement in a local newspaper circulating in the appropriate authority's area
- The publication shall not be later than 7 days after the date of the application.
- Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.
- Every notice which relates to premises shall identify the premises
- Every such notice which relates to a vehicle, vessel or stall shall specify where it is to be used as a sex establishment.
- A notice shall be in such form as the appropriate authority may prescribe. (The form prescribed by Bromsgrove District Council for such notices is shown at **Annex B** to this Policy)

## 2.4 Consultation Arrangements – Relevant Bodies

2.4.1 The Council will also notify all applications for grant, renewal, transfer or variation of a licence to the following bodies who may comment on or object to the application within 28 days of the date of the application:-

- Chief Officer of Police
- Local Safeguarding Children Board
- Fire Safety Officer
- Trading Standards
- Planning Authority
- Any relevant Parish Council
- Relevant Bromsgrove District Council Ward Members

## 2.5 Objections

2.5.1 When considering an application for the grant, renewal, variation or transfer of a Sex Establishment Licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.

2.5.2 Any person can object to an application but the objection should be relevant either to the **mandatory grounds** for refusal set in **Section 3.3** or to the **discretionary grounds for refusal** set out in **section 3.4** below.

2.5.3 Objections should not be made on moral grounds or values. Any decision to refuse a licence will be relevant to one or more of the grounds in **3.3 and 3.4** below.

2.5.4 Objectors must give notice of their objection in writing, stating the general terms of the objections.

2.5.5 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.

## **2.6 Variation of a Licence**

2.6.1 The holder of a Sex Establishment Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

2.6.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

## **2.7 Renewal of a Licence**

2.7.1 The holder of a Sex Establishment Licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.

2.7.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

## **2.8 Transfer of a Licence**

2.8.1 A person may apply for the transfer of a licence at any time.

2.8.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

## **3. DETERMINATION OF APPLICATIONS**

### **3.1 Decision Making – Delegation of Functions**

3.1.1 Decisions relating to Sex Establishment licensing will be delegated in accordance with the table of delegated functions shown at **Annex C**.

### **3.2 General Principles**

3.2.1 In determining an application relating to a sex establishment licence the Council will assess the application on its merits having regard to the content of this Policy, the relevant legislation and any relevant guidance that may be issued from time to time.

3.2.2 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing Committee may authorise a departure from the policy if it feels it appropriate for a specific application.

3.2.3 In determining an application for the grant, renewal, transfer or variation of a licence, the Council will have regard to any representations that it has received that are relevant to the grounds set out in **3.3 and 3.4**.

3.2.4 The Council will consider granting licences of 12 months duration or for a shorter term if deemed appropriate.

### **3.3 Mandatory Refusal of Applications**

3.3.1 A licence under the Act cannot be granted —

- to a person under the age of 18; or
- to a person who is for the time being disqualified having had a licence revoked in the past 12 months; or
- to a person, other than a body corporate, who is not resident in an European Economic Area state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- to a body corporate which is not incorporated in an European Economic Area state; or
- to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

## 3.4 Discretionary Refusal of Applications

3.4.1 The Council may refuse an application for grant or renewal of a licence on one or more of the grounds specified below:-

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality (nil may be an appropriate number);
- (d) that the grant or renewal of the licence would be inappropriate, having regard—
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.4.2 The Council may refuse an application for the transfer of a licence on either or both of the grounds specified below:-

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

## 3.5 Applicant Suitability

3.5.1 In determining applicant suitability for the grant of a new licence, renewal of a licence, or the transfer of an existing licence, the Council will take the following into account:

- Previous relevant knowledge and experience of the applicant;
- Any evidence of the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other District or Borough;
- Any report about the applicant and management of the Premises received from objectors.

3.5.2 In particular the Council will liaise closely with the Police and any other relevant appropriate agencies in determining the fitness of the applicant.

3.5.3 Whilst every application will be considered on its merits, the Council will be unlikely to grant an application from any person, or for the benefit of any person, with unspent relevant criminal convictions.

## **3.6 Location of the Premises**

3.6.1 In accordance with relevant case law, the Council shall decide on the suitability of a particular locality for a sex establishment as a matter of fact to be determined by the particular circumstances of each case and not by the prescription of boundaries as stated on a map.

3.6.2 The Council is mindful of its power to determine that no sex establishments should be located in a particular locality.

3.6.2 In determining whether the proposed location of a sex establishment is appropriate, the Council will have regard to all of the relevant circumstances including the following:-

- The general character of the relevant locality
- The proximity of residential premises
- The proximity of any places of public religious worship
- The proximity of any schools or other educational establishments
- The proximity of any playing fields and play areas
- The proximity of any leisure centres or swimming pools
- The proximity of any libraries or other public buildings
- The proximity of any youth clubs
- The proximity of any other licensed sex establishments
- The proximity of any premises authorised under the Licensing Act 2003 for the sale or supply of alcohol for consumption on the premises.

## **3.7 Renewal Applications**

3.7.1 When considering an application for renewal of a sex establishment licence the Council will have due regard to how long the premises have existed and been licensed.

## 4. **POWER TO PRESCRIBE STANDARD CONDITIONS**

- 4.1 Schedule 3 Section 13 of the Act provides a power for the Council to specify Standard Conditions in relation to sex establishment licences.
- 4.2 The Council's Standard Conditions for sex shops and sex cinemas are detailed in **Annex D** of this Policy. The Council's Standard Conditions for sexual entertainment venues are detailed at **Annex E** of this Policy.
- 4.3 All licences will be granted, renewed, transferred or varied subject to these Standard Conditions unless expressly excluded, varied or added to by a Licensing Sub-Committee.

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## 5. HEARINGS

- 5.1 Where the Council is required to determine an application by reference to a Licensing Sub-Committee, the applicant and objectors will be advised of the date, time and venue of the hearing.
- 5.3 Hearings will be carried out in accordance with the Council's agreed procedure for Licensing Hearings, which is shown at **Annex F**.
- 5.4 The Licensing Sub-Committee will normally communicate their decision at the end of the hearing and all parties will also receive written confirmation of the decision taken by the Licensing Sub-Committee.

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## **6 OPERATION AND MANAGEMENT OF PREMISES**

- 6.1.1 The Council requires all licensees to ensure that they and their employees comply with all relevant licence conditions and health and safety regulations.
- 6.1.2 In terms of the management of licensed Premises, the Council strongly encourages where possible and appropriate, that licensees:
- a) Work with statutory agencies such as the Police, and the Council in order to create and maintain a safe environment, both within licensed Premises and in the environs around them;
  - b) Particularly those licence holders whose Premises are located in areas with high levels of recorded crime, develop crime prevention strategies in consultation with the Police and the Council.
  - c) In terms of the management of licensed Premises, the Council strongly encourages and where possible and appropriate all licensees to develop strategies and procedures to increase access for disabled people to the Premises.
  - d) In terms of the employment of staff in licensed Premises, the Council requires that all relevant staff be appropriately trained in areas such as health and safety, first aid, and fire precautions.



## **7. ENFORCEMENT**

### **7.1 General**

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.
- 7.1.2 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Council's Corporate Enforcement Policy. This has been drafted with reference to the Statutory Regulator's Compliance Code.
- 7.1.3 The responsibility for the overall supervision of sex establishment licensing lies with the Head of Worcestershire Regulatory Services.

### **7.2 Offences**

- 7.2.1 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that schedule and include:
- Knowingly causing or permitting the use of any premises as Sex Establishment without a licence;
  - Being the holder of a licence, knowingly employing a person in a Sex Establishment who is disqualified from holding a licence;
  - Being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
  - Being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
  - Being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 years to enter the establishment;
  - Being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.
- 7.2.2 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.
- 7.2.3 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale.

## **8. REVOCATION OF LICENCES**

- 8.1 The Council may, after giving the holder of a licence an opportunity of appearing before and being heard by them, at any time revoke the licence on any of the following grounds:-
- (a) that one of the mandatory grounds for refusing to grant a licence exists and has come to light since the grant of the licence.
  - (b) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - (c) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself
- 8.2 The Council will consider whether or not to revoke a licence upon a request to do so from the Police or at the recommendation of the Head of Worcestershire Regulatory Services following representations from any other person or body.

## 9. AMENDMENTS TO THIS POLICY

- 9.1 Any significant amendment to this policy will only be implemented after further consultation with the trade and the public. All such amendments to this Policy will be undertaken in accordance with the Council's Constitution.
- 9.2 For the purpose of this section, any significant amendment is defined as one that:
- a) is likely to have a significant financial effect on licence holders, or
  - b) is likely to have a significant procedural effect on licence holders, or
  - c) is likely to have a significant effect on the community.

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## ANNEX A - KEY DEFINITIONS

<b>TERM</b>	<b>DEFINITION</b>
the Act	Local Government (Miscellaneous Provisions) Act 1982
Authorised Officer	any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
the Council	Bromsgrove District Council
he, his	all references to 'he' or 'his' also include 'she' or 'hers'
Licence Holder	a person who holds a Sex Establishment Licence under the Act
this Policy	Bromsgrove District Council's Sex Establishment Licensing Policy
Premises	A building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a Sex Establishment Licence granted under the Act
Sex Establishment	As defined in Schedule 3 of the Act (as amended)  A sex establishment means a sex shop, sex cinema or sexual entertainment venue as defined below in extracts from the Act.
Sex Cinema	As defined in Schedule 3 of the Act (as amended)  3. — (1) In this Schedule, "sex cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which— (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage— (i) sexual activity; or (ii) acts of force or restraint which are associated with sexual activity; or (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted. (2) No premises shall be treated as a sex cinema by reason only— (a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (which the meaning of section 136 of that Act), of their use in accordance with that authorisation; or (b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of

the Cinemas Act 1985.

Sex Shop

As defined in Schedule 3 of the Act, as amended

4. —

(1) In this Schedule “sex shop” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating—

(a) sex articles; or

(b) other things intended for use in connection with, or for the purpose of stimulating or encouraging—

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity.

(2) 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) In this Schedule “sex article” means—

(a) anything made for use in connection with, or for the purpose of stimulating or encouraging—

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity; and

(b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies—

(a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and

(b) to any recording of vision or sound, which—

(i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or

(ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sexual Entertainment  
Venue

As defined in Schedule 3 of the Act (as amended)

2A

(1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

(2) In this paragraph “relevant entertainment” means—

(a) any live performance; or

(b) any live display of nudity;

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

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(3) The following are not sexual entertainment venues for the purposes of this Schedule—

- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
  - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
  - (ii) no such occasion has lasted for more than 24 hours; and
  - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

“audience” includes an audience of one;

“display of nudity” means—

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

- (a) the relevant entertainment; or
- (b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

## ANNEX B - FORM OF PUBLIC NOTICE

### Local Government (Miscellaneous Provisions) Act 1982

#### Schedule 3

#### NOTICE OF APPLICATION FOR GRANT / RENEWAL/ VARIATION / TRANSFER OF A SEX ESTABLISHMENT LICENCE

Name/s of Applicant/s	
Postal address of premises including name of the premises and post code (where possible) or a description to enable the location to be identified.	
Summary of application (hours of trading, type of licence, etc):	
<p><b>NOTICE IS HEREBY GIVEN</b> that an application has been made to Bromsgrove District Council for a licence to use the above premises as a sex establishment.</p> <p>Copies of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a licence) and of the application may be inspected at the Dolphin Centre, School Drive, Bromsgrove between 9.00 am and 5.00 pm (Monday to Friday except public holidays).</p> <p>Any objections in respect of the above application must be made in writing to the council at the above address by</p> <p>_____</p> <p>(28 days after the date of the application)</p> <p>It is an offence knowingly or recklessly to make a false statement in connection with an application punishable on summary conviction by a maximum fine of £5,000.</p>	

## ANNEX C - TABLE OF DELEGATED FUNCTIONS

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Approval of any sex establishment licensing policy	All cases		
Setting of all fees in relation to sex establishment licences	All cases		
Application for a new sex establishment licence		In all cases	
Application for variation of a sex establishment licence		In all cases	
Application for transfer of a sex establishment licence		Where objections are received	In all other cases
Application for renewal of a sex establishment licence		Where objections are received	In all other cases
Application for waiver from the requirement for a licence		In all cases	
Consideration of the revocation of a sex establishment licence		In all cases	



## **ANNEX D**

### **STANDARD CONDITIONS**

#### **APPLICABLE TO LICENCES FOR SEX SHOPS AND SEX CINEMAS**

##### **Definition**

1. In these conditions save when the context otherwise requires the following expressions shall have the following meanings:-
  - (i) "Sex Establishment" "Sex Cinema" "Sex Shop" and "Sex Article" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
  - (ii) "Premises" means a building or part of a building and any forecourt, yard or place of storage used in connection with a building, or part of a building which is the subject of a Licence for a Sex Establishment granted under the said Third Schedule.
  - (iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
  - (iv) "Approved" means approved by the Council in writing.
  - (v) "The Council" means Bromsgrove District Council.
  - (vi) "Film" shall have the meaning ascribed to it in the Films Acts 1960 – 1980.

##### **General**

2. In the event of a conflict between these Regulations and any special conditions contained in a Licence relating to a Sex Establishment the special conditions shall prevail.
3. The grant of a Licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
4. The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof.

##### **Hours of opening**

5. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public before 9.30 a.m. and shall not be kept open after 6.00 p.m. on Mondays to Saturdays inclusive (Fridays to 8.00 p.m.).
6. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public on Sundays or any Bank Holidays or any public holidays.

## Conduct and Management of Sex Establishments

7. Where the Licensee is a body corporate or an unincorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
8. The Licensee, or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence and of whom details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the Premises during the whole time they are open to the public.
9. The name of the person responsible for the management of a Sex Establishment shall be the Licensee or a Manager approved by the Council and shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.
10. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his absence, and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within thirty minutes of the Sex Establishment opening for business and is to be available for inspection by the Police and by authorised Officers of the Council.
11. The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.
12. The Licensee shall maintain good order in the Premises.
13. No person under the age of 18 shall be admitted to the Premises or employed in the business of a Sex Establishment.
14. The Licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been approved by the Council.
15. No part of the Premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling.
16. Neither the Licensee nor any employee or to the person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the Premises.
17. The Licensee shall comply with all statutory provisions and any regulations made thereunder.
18. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council, indicating his name and that he is an employee.
19. The copy of the Licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the Licence required to be

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displayed as aforesaid shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition.

## Use

20. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
21. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
22. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.
23. Neither Sex Articles nor 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.

## Goods Available in Sex Establishments

24. All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
25. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.
26. No film or video film shall be exhibited sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
27. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling in matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

## External Appearance

28. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:-
  - (i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the Premises by law, or by any condition of a Licence granted by the Council.

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- (ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
29. The entrances to the Premises shall be of a material or covered with a material which will render the interior of the Premises invisible to passers by.
30. Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This regulation shall not be construed as lessening the obligation of the Licensee under Regulation 28 hereof.

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

31. The Premises shall be maintained in a good repair and condition.
32. Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
33. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-
- (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".
  - (ii) Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "private".
  - (iii) Save in the case of an emergency no access shall be permitted through the Premises to any unlicensed premises adjoining or adjacent.
34. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
35. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.
36. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
37. 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.
38. All parts of the Premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

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## **Safety**

39. The Licensee shall take all reasonable precautions for the safety of the public and employees.
40. The Licensee shall comply with any fire prevention and safety measures that may be required of him by the Council.
41. The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

## ANNEX E

### STANDARD CONDITIONS

#### APPLICABLE TO LICENCES FOR SEXUAL ENTERTAINMENT VENUES

##### General

1. Only activities which have previously been agreed in writing by the Licensing Authority shall take place
2. The agreed activities shall take place only in designated areas approved by the Licensing Authority
3. Dressing rooms will be provided for entertainers and access to these will be restricted by management in accordance with approved arrangements – before, during and after the entertainment
4. The entertainment will be provided only by the entertainers and no members of the audience shall be permitted to participate
5. No audience participation shall be permitted
6. There must not be any contact by the performer with the patron immediately before, during and immediately after the performance of striptease except:
  - (a) the leading of a patron hand in hand to and from a chair or to and from a designated dance area
  - (b) the simple handshake greeting
  - (c) the placing of monetary notes or dance vouchers into the hand or garter worn by the performer
  - (d) the customary kiss on the cheek of the patron by the dancer at the conclusion of the performance
  - (e) if the contact is accidental
7. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden
8. Entertainers or performers not performing must not be in a licensed area in a state of undress
9. A clear notice shall be displayed at each entrance to the premises or to the licensed area in a prominent position stating “No persons under the age of 18 years will be admitted.
10. No entertainers under the age of eighteen shall take part in the entertainment, and an adequate record must be maintained of the names, addresses and dates of birth of all performers including adequate identity checks
11. No person under the age of eighteen will be allowed on the premises where the entertainment is taking place

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12. The entertainment shall under no circumstances be visible to members of the public from outside the premises
13. Any external advertising at the premises shall be in a form acceptable to the Council
14. The licensee or a nominated manager shall be present on the premises at all times whilst the entertainment is taking place
15. A nominated person shall be present to oversee the activities of performers
16. A register shall be maintained and kept on the premises and be available for inspection at any time by police or officers of the Licensing Authority at all times, to clearly record the identity of the licensee(s) on duty, the day and times of start and finish of the duty, and the record shall be retained for a period of not less than 12 months after the last entry in the register

## **CCTV**

17. A CCTV system shall cover all areas where dancing will take place including any dancing booths provided. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days with time and date stamping.
18. Tape recordings shall be made available to an authorised council officer or a police officer together with facilities for viewing
19. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice

## **Door supervisors**

20. Whilst dancing takes place at least two trained door supervisors shall be employed in those parts of the premises used for dancing, unless otherwise agreed by the Licensing Authority and the Police
21. Any individual employed on the Premises to conduct a security activity (within the meaning of schedule 2 of the Private security Industry Authority) must be licensed by the Security Industry Authority

## **Club rules**

22. A code of conduct for dancers shall be produced by the licensee together with a disciplinary procedure for breaches of the code which shall be implemented if approved in writing by the Council. The code of conduct for dancers shall prohibit activities that might be thought to lead to prostitution or other unlawful activities. No amendments shall be made to the code or disciplinary procedure without the prior written consent of the Council
23. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.

24. In relation to points 5 and 6 above, these procedures and rules must be produced for inspection by the Licensing Authority and the Police within 14 days of issue of the licence.

## **Admission of Authorised Officers**

25. Officers of the Council, Police, and other agencies having authorisation (which will be produced on request) shall be admitted immediately to all parts of the premises at all reasonable times and at any time the premises are open for business.

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## ANNEX F – HEARINGS PROCEDURE

### Licensing Sub-Committee

#### Procedure at meetings

1. The Chairman will briefly explain the procedure to members of the public
2. The Licensing Officer will open the hearing with an outline of the relevant details of the application
3. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Committee
4. The Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Again opportunities to ask questions will be afforded to all of those present.
5. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
6. At the conclusion of the hearing, the stage at which the Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information, or clarification, all parties at the hearing must be invited to return.
7. When the Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence.

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## LICENSING COMMITTEE

14<sup>th</sup> September 2015

**DEREGULATION ACT 2015**  
**POLICY ON THE DURATION OF HACKNEY CARRIAGE AND PRIVATE**  
**HIRE DRIVER LICENCES AND PRIVATE HIRE OPERATOR LICENCES**

Relevant Portfolio Holder	Councillor Peter Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ivor Pumfrey – Acting Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

From 1<sup>st</sup> October 2015, as a result of section 10 of the Deregulation Act 2015, the standard duration of hackney carriage and private hire driver licences and private hire operator licences will be three and five years respectively unless the Council thinks it is appropriate to grant licences for a lesser period in the circumstances of a particular case.

Members are asked to approve a policy on the duration of hackney carriage and private hire driver licences and private hire operator licences to take effect from 1<sup>st</sup> October 2015.

**2. RECOMMENDATIONS**

**Members are asked to RESOLVE to approve the policy on the duration of hackney carriage and private hire driver licences and private hire operator licences (Appendix 1) to take effect from 1<sup>st</sup> October 2015.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The fees charged by the Council for hackney carriage and private hire driver licences and for private hire operator licences are being reviewed in light of the changes being enacted under section 10 of the Deregulation Act 2015.
- 3.2 The fees charged for three year driver licences and five year operator licences are inevitably going to be higher than the current cost of a one year licence as the Council's enforcement and compliance costs for the three or five year period would have to be covered in the licence fee.

## LICENSING COMMITTEE

14<sup>th</sup> September 2015

- 3.3 However the licence fee will not simply be the relevant multiplied cost of a one-year licence fee, as the costs associated with administering applications for three and five year licences will be less than the cost of administering three or five applications for one year licences.
- 3.4 The fees to be charged for three year driver licences and five year operator licences will need to be approved by Cabinet.

### Legal Implications

- 3.5 Section 10 of the Deregulation Act 2015 amends sections 53 and 55 of the Local Government (Miscellaneous Provisions) Act 1976 which from 1<sup>st</sup> October 2015 will read as follows:

#### Section 53 (1) – Driver Licences

- (a) *Every licence granted by a district council under the provisions of this Part of this Act to any person to drive a private hire vehicle shall remain in force for three years from the date of such licence or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.*
- (b) *Notwithstanding the provisions of the Public Health Act 1875 and the Town Police Clauses Act 1889, every licence granted by a district council under the provisions of the Act of 1847 to any person to drive a hackney carriage shall remain in force for three years from the date of such licence or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”*

#### Section 55 (2) – Operator Licences

*Every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.*

### Service / Operational Implications

- 3.6 The Deregulation Act 2015 received Royal Assent on 26<sup>th</sup> March 2015. Section 10 of this Act relates to the Council's hackney carriage and private hire licensing functions and is due to come into force on 1<sup>st</sup> October 2015.

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- 3.8 The effect of this change will be that the standard (default) duration of a hackney carriage or private hire drivers' licence issued by the Council must be three years and the standard (default) duration of a private hire operators' licence will be five years. Currently both licence types are issued by the Council for a period of one year.
- 3.9 Whilst the standard duration of these licences will be three or five years from 1<sup>st</sup> October 2015, sections 53 and 55 (as amended) still allow the Council to grant a licence for a lesser period if it thinks it appropriate to do so in the circumstances of the case.
- 3.10 A draft policy on the duration of hackney carriage and private hire driver licences and private hire operator licences can be seen at **Appendix 1**.
- 3.11 Under this draft policy, if an applicant wishes to be granted a licence for one year, the Council would automatically deem it appropriate in the circumstances to grant a licence for this period in line with the wishes of the applicant.
- 3.12 Those applying for a three year licence will have to produce with their application, any of the documents that would have fallen due within the licence period. This would include DBS (criminal conviction certificate) application forms, medicals etc.
- 3.13 There are many reasons why an applicant may want to remain on a one-year licence. Inevitably the cost of applying a three or five year licence will be higher than the cost of a one year licence as the Council's enforcement and compliance costs for the three year period would have to be covered in the licence fee. Applicants may therefore prefer to avoid having to pay a larger licence fee every three or five years and continue to pay a lower fee each year.
- 3.14 Also applicants may not want a three year licence as they may not know if they intend to remain in the trade for a further three year period. This would apply in particular to older applicants who may be considering retiring within the next three years.
- 3.15 Members are therefore recommended to adopt the draft policy shown at **Appendix 1** with effect from 1<sup>st</sup> October 2015.

## LICENSING COMMITTEE

14<sup>th</sup> September 2015

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### 4. RISK MANAGEMENT

- 4.1 There is a need to consider the legislative changes and to amend and or adopt a policy to take account of the changes required. Failure to take account of new legislation may leave the authority at risk of legal challenge by customers who seek to apply for a licence under the new provisions.

### 5. APPENDICES

Appendix 1 – Draft Policy on Licence Durations

### AUTHOR OF REPORT

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## BROMSGROVE DISTRICT COUNCIL

### **POLICY ON THE DURATION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES**

From 1<sup>st</sup> October 2015 the standard duration of licences issued under the Local Government (Miscellaneous Provisions) Act 1976 to authorise individuals to drive hackney carriage or private hire vehicles will be three years or such less period as the Council think appropriate in the circumstances of the case. This policy intends to clarify in what circumstances the Council would consider granting a licence of less than three years.

#### Applicant Request for a One Year Licence

If the applicant for a licence to drive hackney carriage or private hire driver requests a licence of one year duration rather than the standard three years, the Council think it would be appropriate to grant a one year licence in accordance with the applicant's wishes.

#### Standard Three Year Licence

If an existing licensed driver wishes to be granted a licence of three years duration, they must pay the relevant fee and provide with their application such of the following as will fall due under the Council's policy and conditions during the three year licence period:

- DBS Application Form
- Medical Report
- Passport sized photographs
- DVLA Mandate or Check Code

## BROMSGROVE DISTRICT COUNCIL

### POLICY ON THE DURATION OF PRIVATE HIRE OPERATOR LICENCES

From 1<sup>st</sup> October 2015 the standard duration of licences issued under the Local Government (Miscellaneous Provisions) Act 1976 to authorise individuals to operate private hire vehicles will be five years or such less period as the Council think appropriate in the circumstances of the case. This policy intends to clarify in what circumstances the Council would consider granting a licence of less than five years.

#### Applicant Request for a One Year Licence

If the applicant for a licence to operate or private hire vehicles requests a licence of one year duration rather than the standard five years, the Council think it would be appropriate to grant a one year licence in accordance with the applicant's wishes.

#### Standard Five Year Licence

If an existing licensed operator wishes to be granted a licence of five years duration, they must pay the relevant fee and must also provide a DBS Application Form with their application.



## **LICENSING COMMITTEE**

**14<sup>th</sup> September 2015**

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### **14<sup>th</sup> September 2015**

Draft Sex Establishment Licensing Policy – Approval for Consultation

Deregulation Act 2015 – Policy on Duration of Hackney Carriage and Private Hire Driver Licences and Private Hire Operator Licences

### **9<sup>th</sup> November 2015**

Gambling Act 2005 – Review of Statement of Principles – Consultation Results

Hackney Carriage and Private Hire Licensing Policies Consultation Results

### **14<sup>th</sup> March 2016**

#### **To Be Allocated To Suitable Available Dates**

Draft Scrap Metal Licensing Policy – Approval for Consultation

Approval of Amended Hackney Carriage and Private Hire Handbook

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