



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 11TH JULY 2022

AT 6.00 P.M.

PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE,
WORCESTERSHIRE, B61 8DA

MEMBERS: Councillors R. J. Deeming, S. P. Douglas, A. B. L. English, C.A. Hotham, A. D. Kriss, S. A. Robinson, H. D. N. Rone-Clarke, M. A. Sherrey, C. J. Spencer, M. Thompson and P. J. Whittaker

AGENDA

1. Election of Chairman
2. Election of Vice-Chairman
3. To receive apologies for absence and notification of substitutes
4. 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.
5. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 14th March 2022 (Pages 1 - 6)
6. REVIEW OF SEX ESTABLISHMENT LICENSING POLICY (Pages 7 - 76)
7. LICENSING LEGISLATIVE UPDATE (Pages 77 - 84)
8. Licensing Committee Work Programme 2022/2023 (Pages 85 - 86)

9. 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.

Parkside
Market Street
BROMSGROVE
Worcestershire
B61 8DA

28th June 2022

K. DICKS
Chief Executive

If you have any queries on this Agenda please contact

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 14TH MARCH 2022, AT 6.02 P.M.

PRESENT: Councillors R. J. Deeming (Chairman), P. J. Whittaker (Vice-Chairman), S. P. Douglas, A. B. L. English, J. E. King (substituting for Councillor S. A. Robinson), H. D. N. Rone-Clarke, M. A. Sherrey, C. J. Spencer and M. Thompson

Observers:

Officers: Mr. R. Keyte, Mr. D. Etheridge and Mrs. P. Ross

13/21 **TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

Apologies for absence were received from Councillors A. D. Kriss, P. M. McDonald and S. A. Robinson, with Councillor J. E. King in attendance as the substitute Member for Councillor S. A. Robinson.

14/21 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

15/21 **MINUTES**

The minutes of the Licensing Committee held on 15th November 2021 were submitted.

RESOLVED that the minutes of the Licensing Committee held on 15th November 2021, be approved as a correct record.

16/21 **DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY - CONSIDERATION OF CONSULTATION RESPONSES**

The Committee considered a report which detailed the consultation responses received to the draft Hackney Carriage and Private Hire Licensing policy, that went out for the 12 week consultation period, with the relevant stakeholders; as detailed in paragraph 3.8, page 6 of the main agenda report, during June to September 2021.

The Principal Licensing Officer, Worcestershire Regulatory Services (WRS), introduced the report and in doing reminded the Committee that a review of all of the Council's hackney carriage and private hire policies had been undertaken in response to the publication by the Department

Agenda Item 5

Licensing Committee
14th March 2022

for Transport guidance under section 177 of the Policing and Crime Act 2017, entitled “Statutory Taxi & Private Hire Standards.”

On 15th March 2021, Licensing Committee Members were presented with a copy of the draft Hackney Carriage and Private Hire Licensing Policy for consideration. Whilst a large number of the recommendations set out in the Statutory Taxi & Private Hire Standards were already being met within the Council’s existing policies, the draft Hackney Carriage and Private Hire Licensing Policy was drafted so as to incorporate any of the recommendations that were not already being followed.

As highlighted in the preamble above, an initial consultation was undertaken during June and September 2021. The consultation was then re-opened for a 7 week period during December 2021 to January 2022 to provide a further opportunity for stakeholders to respond. Consultation was also undertaken via an online survey. Paper versions of the consultation survey were also made available for those that wished to respond that way.

Information on the consultation, along with details on how to respond were sent out to stakeholders, as detailed in paragraph 3.17, page 7 of the main agenda report.

The consultation was also made available on the Council’s website and was promoted by the Council’s Communications Team, including via the Council’s social media channels.

The questions included in the consultation were detailed at Appendix 2 to the report.

A summary of the consultation responses received were detailed at Appendix 3 to the report.

Officers had reviewed the consultation responses and did not consider that there were any compelling local reasons why those elements of the draft Hackney Carriage and Private Hire Licensing Policy, that were based on the recommendations in the Statutory Taxi & Private Hire Standards, should not be implemented.

A number of other comments and observations had also been received, and these were summarised in a table on pages 9 to 11 of the main agenda report.

The Principal Licensing Officer responded to questions from the Committee and in doing so, explained that the draft Hackney Carriage and Private Hire Licensing Policy, was based on a template that had been created with a view to each of the six district Councils in Worcestershire adopting new policy statements that were substantially similar to one another, particularly in relation to the licensing of hackney carriage and private hire drivers and private hire operators.

Members expressed their sincere thanks to the Principal Licensing Officer for his comprehensive report.

Members questioned cross border working and the Principal Licensing Officer reassured Members that, the Department for Transport expected the recommendations detailed in the Statutory Taxi & Private Hire Standards, to be implemented every authority unless there was a compelling local reason not to. The Department for Transport would continue to monitor to see how authorities were progressing with the in the Statutory Taxi & Private Hire Standards. There was a consensus that common core minimum standards were required to regulate better the taxi and private hire vehicle sector.

Various associations, including the Local Government Association (LGA) Licensing, regulations and trading standards would continue to lobby to ensure that the Statutory Taxi & Private Hire Standards were followed.

RESOLVED that the draft Hackney Carriage and Private Hire Licensing Policy, as detailed at Appendix 1 to the report, be approved to take effect from 1st September 2022.

17/21

REVIEW OF HACKNEY CARRIAGE TABLE OF FARES

Members received a report on the Hackney Carriage Table of Fares and a supplementary agenda pack detailing updated information on fuel prices.

The Principal Licensing Officer, Worcestershire Regulatory Services (WRS), presented the report and in doing so informed the Committee that, officers had recently received a request on behalf of a number of hackney carriage licence holders for the current table of fares to be varied to increase the maximum fares that could be charged.

Hackney Carriage (“Taxi”) fares were made up of an initial hiring charge and a “mileage” rate, both of which were expressed in terms of distance and / or time per unit cost. This was because when a hired taxi was stationary or moving slowly in traffic the meter continued charging, but by time, instead of distance.

The table of fares applied only to hackney carriage vehicles. Private hire operators were free to agree their hiring charges in advance with their customers, normally at the time of booking the journey.

Appendix 1 to the report detailed the current table of fares. The current table of fares was approved by the Licensing Committee at its meeting held on 24th June 2013 and had taken effect on 1st August 2013.

The structure of the current table of fares was somewhat complex. The table of fares was structured so as to set out one single tariff of charges and then allowed the driver to charge extra depending on a number of factors including the time and date when the journey commenced, how

Agenda Item 5

Licensing Committee
14th March 2022

many passengers were being carried, how the vehicle was booked and the visibility conditions.

Officers recently received correspondence, sent on behalf of a number of hackney carriage licence holders, requesting that the Council gave consideration to varying the table of fares. The initial request was for a £1 increase to the charge for the first mile and for subsequent miles to increase from the current level of around £1.77 per mile to £2 per mile.

Officers acknowledged this request and had asked representatives of the hackney carriage trade whether they would like to try and also use this opportunity to simplify the table of fares for drivers and passengers, as well as with a view to providing those in the hackney carriage trade with a fair and reasonable increase to the amount they could charge for journeys.

The hackney carriage trade representatives were receptive to this idea and following liaison with officers regarding a more simplified structure for the table of fares, a proposal was put forward that the table of fares be varied to that as detailed at Appendix 2 to the report.

When drawing comparisons between hackney carriage fares in different areas, the normal method used was to compare the cost of a 2-mile journey on Tariff 1. A table showing a comparison of the hackney carriage fares charged for a 2-mile journey on Tariff 1 in other local districts was detailed at Appendix 3 to the report.

If the table of fares proposed by the trade were to be implemented, this would see the cost of a two mile journey on Tariff 1 increase from the current level of £5.80 to £7.00, an increase of £1.20 or 20.7%.

Members' attention was drawn to the Supplementary agenda pack which provided updated information on current fuel prices.

The Principal Licensing Officer, WRS further informed the Committee that other authorities would be looking at fares, due to the increase in the cost of living and recent fuel cost increases.

Further debate followed, with the Principal Licensing Officer, WRS responding to a number of questions from Members with regard to reviewing fares annually and the possibility of reviewing any increased fares later during 2022, should fuel prices reduce or circumstances merit it.

In response to further questions from Members, the Principal Licensing Officer, WRS, stated that private hire fares had significantly increased and that hackney carriage fares had fallen behind. Private hire drivers / operators could react quickly to increase their fares, should the need arise. However, hackney carriage fares under Section 65 (1) of the Local Government (Miscellaneous Provisions) ACT 1976 stated that a district council may fix the rates or fares within the district and that any

Agenda Item 5

Licensing Committee
14th March 2022

variation should be published in at least one local newspaper and that any objections received had to be considered by the district council.

Members commented that they had welcomed the report, but were somewhat surprised that it had been 9 years since the hackney carriage table of fares was last reviewed; and were in agreement that going forward an annual review of the hackney carriage table of fares, be included on the Licensing Committee Work Programme for 2022/2023.

An amendment to the recommendation that “an interim review of Hackney Carriage Table of Fares if circumstances merit it”, be included, was proposed and seconded.

On being put to the vote, the Committee voted in favour of the amended recommendation.

RESOLVED that the requested variations to the table of fares, be agreed and

- a) that the proposed table of taxi fares as set out in Appendix 2 to the report, be advertised as a public notice and objections from the public invited in accordance with the requirements of section 65, Local Government (Miscellaneous Provisions) Act, 1976;
- b) that if no objections were received from the public within 14 days of publication of the notice that the proposed tariff to come into effect on 16 May 2022.
- c) that if objections were received in the stated time, that the matter to be considered further at the next meeting of the Licensing Committee, and a decision made as to whether the variations to the table of fares should be made; and
- d) that an interim review of the Hackney Carriage Table of Fares, if circumstances merit it, be carried out.

18/21

LICENSING COMMITTEE WORK PROGRAMME MARCH 2022

The Committee considered the Work Programme for 2021/22.

Members discussed the Work Programme and in doing so it was agreed that: -

11th July 2022

- Objections received to the Hackney Carriage Table of Fares.
- Revisit the Councils current vehicle licensing policies with regard to standards and age criteria for electric vehicles.

Agenda Item 5

Licensing Committee
14th March 2022

- Look at incentives for drivers to purchase less polluting vehicles.
- Wheelchair Accessible Vehicles (WAV's) report on the number of WAV's licensed in the district, ways to incentivise drivers to purchase WAV's and an estimate of the capacity (number) of WAV's the district needs.

19th September 2022

- Interim review of Hackney Carriage Table of Fares if circumstances merit it.

2022/2023

27th March 2023

- Annual review of Hackney Carriage Table of Fares

RESOLVED that the Licensing Committee Work Programme for 2021/2022 be updated to include the items discussed and agreed during the course of the meeting, as detailed in the preamble above.

The meeting closed at 7.08 p.m.

Chairman

REVIEW OF SEX ESTABLISHMENT LICENSING POLICY

Relevant Portfolio Holder	Councillor P Thomas
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Bromsgrove District Council has previously adopted a Sex Establishment Licensing Policy which took effect on 1st April 2016. Officers believe that the policy should now be reviewed, and a revised version of the policy adopted. Member are therefore asked to direct officers to carry out consultation on a draft revised Sex Establishment Licensing Policy.

2. RECOMMENDATIONS

That the Licensing Committee RESOLVES to direct officers to carry out consultation with relevant stakeholders and the general public on the draft revised Sex Establishment Licensing Policy shown at Appendix 2.

3. KEY ISSUES

Financial Implications

- 3.1 The costs of carrying out any consultation exercise would be met from 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.

- 3.3 Where a Council has adopted such a policy, it is best practice for that policy to be reviewed periodically to ensure it remains up to date and fit for purpose.

Service / Operational Implications

- 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 3rd July 1984.
- 3.6 On 15th 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 On 14th March 2016, the Licensing Committee resolved to adopt a Sex Establishment Licensing Policy with effect from 1st April 2016. This decision followed consultation on a draft policy that took place between October 2015 and January 2016.
- 3.10 A copy of the Council’s current Sex Establishment Licensing Policy is attached at **Appendix 1**.
- 3.11 The policy sets out how Bromsgrove District Council approaches its licensing functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

- 3.12 It also provides guidance to Members and Officers when considering applications and informs 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 As the existing policy has been in place for more than six years, officers consider that now would be an appropriate time for the policy to be reviewed and for a revised version of the policy to be adopted.
- 3.14 Officers have therefore reviewed the existing policy and a draft revised version is attached at Appendix 2. This version has been highlighted to show where the document has been revised from the current policy.
- 3.15 The majority of the revisions are minor in nature and have been made to ensure the document is up to date and is as clear and easy to understand as is possible.
- 3.16 The draft revised policy has been amended to update the foreword at the beginning of the document so that it reflects the current vision as set out in the Council Plan.
- 3.17 The draft revised policy has also been updated to reflect the renaming of of the Local Safeguarding Children Board as Worcestershire Safeguarding Children Partnership.
- 3.18 The level of fines applicable in respect of various offences set out in the relevant legislation have been amended to reflect changes made to these since the current policy was approved.
- 3.19 Officers are now asking Members to direct them to carry out consultation with relevant stakeholders and the general public on the draft revised policy shown at **Appendix 2**.
- 3.20 Following consultation the Licensing Committee would consider the responses received and adopt a revised policy.

4. RISK MANAGEMENT

- 4.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal. Carrying out consultation with relevant stakeholders when reviewing the policy minimises the risk of legal challenge.

5. APPENDICES

- Appendix 1 - Existing Sex Establishment Licensing Policy
- Appendix 2 - Draft Revised Sex Establishment Licensing Policy

AUTHOR OF REPORT

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Bromsgrove
District Council

www.bromsgrove.gov.uk

Sex Establishment Licensing Policy

Adopted with effect 1st April 2016

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.

CONTENTS

SECTION	Page Number
1 Introduction	3
2 Licence Applications	5
3 Determination of Applications	8
4 Power to Prescribe Standard Conditions	11
5 Hearings	12
6 Operation and Management	13
7 Enforcement	14
8 Revocation of Licences	15
9 Amendments to Policy	16

ANNEXES

A Key Definitions	17
B Form of Public Notice	20
C Table of Delegated Functions	21
D Standard Conditions (Shops and Cinemas)	22
E Standard Conditions (Sexual Entertainment Venues)	27

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 26th October 2015 and 29th January 2016 and approved on 14th March 2016.
- 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 3rd 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 15th 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.

Agenda Item 6

- 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.

2. 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.
 - The above plan should also contain details of all passive and active fire safety provisions including but no limited to: fire extinguishers, emergency lighting, fire signage & fire detectors.
 - 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

Agenda Item 6

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.

Agenda Item 6

- 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 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.

Agenda Item 6

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.

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.

ANNEX A - KEY DEFINITIONS

TERM	DEFINITION
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,

Agenda Item 6

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).

(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

Agenda Item 6

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>NOTICE IS HEREBY GIVEN 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 Customer Contact Centre, Parkside, Market Street, 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 style="text-align: center;">_____</p> <p style="text-align: center;">(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

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee	Officers
Approval of any sex establishment licensing policy	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 and the Licensee must operate an age verification policy (Challenge 25 or similar) to ensure no person under the age of 18 is admitted to the Premises.
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

Agenda Item 6

(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 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.

- (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.

Agenda Item 6

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. Each area where relevant entertainment is conducted shall be supervised and contain a panic alarm for the safety of performers.
4. Full nudity is only permitted in the approved designated areas, as stipulated or shown on the approved plan attached to the licence with the exception of the designated areas. In all other areas within the premises the performers and employees must at all times wear at least a G-string (female) and or pouch (male) covering the genitalia as well as one other over layer of clothing.
5. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except within the toilets or within the performers' dressing rooms and staff areas.
6. At all times during a performance, performers shall have unrestricted access to a dressing room.
7. The entertainment will be provided only by the entertainers and no members of the audience shall be permitted to participate
8. No audience participation shall be permitted
9. 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
10. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden

Agenda Item 6

11. No performances shall include any sex act with any other performers, patrons, employees, contractors, or with the use of any objects.
12. Entertainers or performers not performing must not be in a licensed area in a state of undress
13. 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.
14. 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
15. No person under the age of eighteen will be allowed on the premises where the entertainment is taking place and the Licensee must operate an age verification policy (Challenge 25 or similar) to ensure no person under the age of 18 is admitted to the Premises.
16. The entertainment shall under no circumstances be visible to members of the public from outside the premises
17. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (a) the address of the premises
 - (b) the licensed name of the premises
 - (c) a notice stating the opening hours of the establishment
18. The lettering used in respect of such permitted items shall be of such colour and style as may be approved by the Licensing Authority.
19. The Licence Holder shall not permit the display outside of the premises of photographs or other images which indicate or suggest that relevant entertainment takes place in the premises.
20. The licensee or a nominated manager shall be present on the premises at all times whilst the entertainment is taking place
21. A nominated person shall be present to oversee the activities of performers
22. 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

23. CCTV will be provided in the form of a recordable system capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

Agenda Item 6

24. Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where adult entertainment occurs.
25. Equipment MUST be maintained in good working order and be correctly time and date stamped.
26. Recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.
27. The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format, EITHER DISC or VHS to the Police / Local Authority on demand.
28. The recording equipment and tapes / discs shall be kept in a secure environment under the control of the DPS or other responsible named individual.
29. An operational daily log report must be maintained, endorsed by signature, indicating the system has been checked and is compliant.
30. In the event of any failings actions taken are to be recorded. In the event of technical failure of the CCTV equipment the Premises Licence Holder / DPS MUST report the failure to the Police on contact number '101' immediately.

Door supervisors

31. Security Industry Authority (SIA) door supervisors shall be on duty at the premises and employed as follows:
32. From the commencement of opening hours on (all days or specific days of the week), there will be a minimum of two (2) SIA registered door supervisors. Where the numbers of persons at the premises reach 150 (including all staff) three (3) SIA door staff shall be employed. These numbers will be maintained until the end of licensable activities.
33. The Premises Licence Holder or Designated Premises Supervisor (DPS) or a person nominated by them in writing for the purpose, shall maintain a register of door supervisors, which shall be kept on the premises, showing the names and addresses of the door supervisors, their badge numbers and shall be signed by the door supervisors as they commence and conclude duty. The register shall be made available on demand for inspection by Officers of the Fire Authority, Police, Licensing Authority or any other authorised body.

Incident Log

34. An incident log must be kept at the premises and made immediately available on request to an authorised officer of the Council or the Police. Incident log records will be retained for a period of 12 months from the date it occurred. The incident log must record the following:

Agenda Item 6

- all crimes reported to the venue
- all ejections of patrons
- any complaints received
- any incidents of disorder
- seizures of drugs or offensive weapons
- any faults in the CCTV system or searching equipment or scanning equipment
- any visit by a relevant authority or emergency service

Club rules / Price List

35. 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
36. 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.
37. In relation to points 35 and 36 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.
38. Patrons or members of the audience shall not be permitted to take photographs or record digital images of performers within the premises via a camera or mobile phones.
39. A price list shall be displayed in a prominent position giving the price and the time allowed for any of the performances.

Dispersal Policy

40. A dispersal policy in relation to the premises shall be kept on the premises and produced to the Police and authorised Local Authority Licensing Officers on request.

Advertisements and Marketing

41. Any person connected with or employed by the business who can be observed from outside the premises must be dressed. Scantily clad individuals must not exhibit in the entrance way or in the area surrounding the premises. (Scantily clad shall mean that nudity or underwear is visible).
42. The licensee shall not allow the use of vehicles, including limousines, for the promotion of the relevant adult entertainment.
43. The collection of patrons and or potential clients is not permitted unless the vehicle is licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

Agenda Item 6

44. The licensee or its agents, servants, employees, contractors or performers shall not tout for business and or customers outside of or away from the licensed premises by any means unless authorised by the Council in writing.
45. The licensee shall ensure that any marketing communications associated with the licensed premises or relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.

Admission of Authorised Officers

46. 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.



Bromsgrove
District Council

www.bromsgrove.gov.uk

Sex Establishment Licensing Policy

(DRAFT REVISED VERSION – JULY 2022)

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 an estimated population of approximately 99,900 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 vision is "to enrich the lives and aspirations of all our residents, businesses and visitors through the provision of high quality services, ensuring that all in need receive appropriate help and support."

People are at the heart of everything we do; whether they live in our district, work here or choose to visit. Everyone deserves to receive the best possible service and support and we aim to put those in need at the forefront. We are dedicated to making a Bromsgrove a better place to live, work and visit; and intend to continue to play our part in developing and enhancing this unique district.

This policy statement accords with the Council's vision and the strategic purposes and priorities set out in the Council Plan.



CONTENTS

SECTION	Page Number
1 Introduction	3
2 Licence Applications	5
3 Determination of Applications	8
4 Power to Prescribe Standard Conditions	11
5 Hearings	12
6 Operation and Management	13
7 Enforcement	14
8 Revocation of Licences	15
9 Amendments to Policy	16
 ANNEXES	
A Key Definitions	17
B Form of Public Notice	21
C Table of Delegated Functions	22
D Standard Conditions (Shops and Cinemas)	23
E Standard Conditions (Sexual Entertainment Venues)	28

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 Equality Act 2010.

1.2 The Law

1.2.1 The Local Government (Miscellaneous Provisions) Act 1982 Bromsgrove District Council adopted Schedule 3 on 3rd 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 15th 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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2. 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.
 - The above plan should also contain details of all passive and active fire safety provisions including but no limited to: fire extinguishers, emergency lighting, fire signage & fire detectors.
 - 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 West Mercia Police
- Worcestershire Safeguarding Children Partnership
- Hereford and Worcester Fire and Rescue Service
- Worcestershire Trading Standards
- Local Planning Authority (Bromsgrove District Council)
- 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 plans and drawings of the premises are not required unless the variation application involves making 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 an initial grant except that plans and drawings of the premises are 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 an initial grant except that plans and drawings of the premises are 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 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.

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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 an unlimited fine.

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

TERM	DEFINITION
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
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	<p>As defined in Paragraph 3(1) and 3(2) of Schedule 3 of the Act (as amended):</p> <p>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—</p> <ul style="list-style-type: none">(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage—<ul style="list-style-type: none">(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, <p>but does not include a dwelling-house to which the public is not admitted.</p> <p>No premises shall be treated as a sex cinema by reason only—</p> <ul style="list-style-type: none">(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 (within the meaning of section 136 of that Act), of their use in accordance with that authorisation(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.

Agenda Item 6

Sex Shop

As defined in Paragraphs 4(1) and 4(2) of Schedule 3 of the Act, (as amended)

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.

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

Sex Article

As defined in Paragraphs 4(3) and 4(4) of Schedule 3 of the Act, (as amended)

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 the sub-paragraph below applies.

This sub-paragraph applies—

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

Sexual Entertainment Venue

As defined in Paragraph 2A of Schedule 3 of the Act (as amended)

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.

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).

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));
- (c) premises specified or described in an order made by the relevant national authority.

“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;

“relevant national authority” means—

- (a) in relation to England, the Secretary of State
- (b) in relation to Wales, the Welsh Ministers

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>NOTICE IS HEREBY GIVEN 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 Customer Contact Centre, Parkside, Market Street, 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 style="text-align: center;">_____</p> <p style="text-align: center;">(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 an unlimited fine.</p>	

ANNEX C - TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee	Officers
Approval of any sex establishment licensing policy	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 and the Licensee must operate an age verification policy (Challenge 25 or similar) to ensure no person under the age of 18 is admitted to the Premises.
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

Agenda Item 6

(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 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.

- (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.

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.

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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. Each area where relevant entertainment is conducted shall be supervised and contain a panic alarm for the safety of performers.
4. Full nudity is only permitted in the approved designated areas, as stipulated or shown on the approved plan attached to the licence with the exception of the designated areas. In all other areas within the premises the performers and employees must at all times wear at least a G-string (female) and or pouch (male) covering the genitalia as well as one other over layer of clothing.
5. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except within the toilets or within the performers' dressing rooms and staff areas.
6. At all times during a performance, performers shall have unrestricted access to a dressing room.
7. The entertainment will be provided only by the entertainers and no members of the audience shall be permitted to participate
8. No audience participation shall be permitted
9. 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
10. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden

Agenda Item 6

11. No performances shall include any sex act with any other performers, patrons, employees, contractors, or with the use of any objects.
12. Entertainers or performers not performing must not be in a licensed area in a state of undress
13. 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.
14. 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
15. No person under the age of eighteen will be allowed on the premises where the entertainment is taking place and the Licensee must operate an age verification policy (Challenge 25 or similar) to ensure no person under the age of 18 is admitted to the Premises.
16. The entertainment shall under no circumstances be visible to members of the public from outside the premises
17. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (a) the address of the premises
 - (b) the licensed name of the premises
 - (c) a notice stating the opening hours of the establishment
18. The lettering used in respect of such permitted items shall be of such colour and style as may be approved by the Licensing Authority.
19. The Licence Holder shall not permit the display outside of the premises of photographs or other images which indicate or suggest that relevant entertainment takes place in the premises.
20. The licensee or a nominated manager shall be present on the premises at all times whilst the entertainment is taking place
21. A nominated person shall be present to oversee the activities of performers
22. 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

23. CCTV will be provided in the form of a recordable system capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.
24. Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where adult entertainment occurs.

Agenda Item 6

25. Equipment MUST be maintained in good working order and be correctly time and date stamped.
26. Recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.
27. The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format, EITHER DISC or VHS to the Police / Local Authority on demand.
28. The recording equipment and tapes / discs shall be kept in a secure environment under the control of the DPS or other responsible named individual.
29. An operational daily log report must be maintained, endorsed by signature, indicating the system has been checked and is compliant.
30. In the event of any failings actions taken are to be recorded. In the event of technical failure of the CCTV equipment the Premises Licence Holder / DPS MUST report the failure to the Police on contact number '101' immediately.

Door supervisors

31. Security Industry Authority (SIA) door supervisors shall be on duty at the premises and employed as follows:
32. From the commencement of opening hours on (all days or specific days of the week), there will be a minimum of two (2) SIA registered door supervisors. Where the numbers of persons at the premises reach 150 (including all staff) three (3) SIA door staff shall be employed. These numbers will be maintained until the end of licensable activities.
33. The Premises Licence Holder or Designated Premises Supervisor (DPS) or a person nominated by them in writing for the purpose, shall maintain a register of door supervisors, which shall be kept on the premises, showing the names and addresses of the door supervisors, their badge numbers and shall be signed by the door supervisors as they commence and conclude duty. The register shall be made available on demand for inspection by Officers of the Fire Authority, Police, Licensing Authority or any other authorised body.

Incident Log

34. An incident log must be kept at the premises and made immediately available on request to an authorised officer of the Council or the Police. Incident log records will be retained for a period of 12 months from the date it occurred. The incident log must record the following:
 - all crimes reported to the venue
 - all ejections of patrons
 - any complaints received
 - any incidents of disorder
 - seizures of drugs or offensive weapons
 - any faults in the CCTV system or searching equipment or scanning equipment
 - any visit by a relevant authority or emergency service

Club rules / Price List

35. 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
36. 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.
37. In relation to points 35 and 36 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.
38. Patrons or members of the audience shall not be permitted to take photographs or record digital images of performers within the premises via a camera or mobile phones.
39. A price list shall be displayed in a prominent position giving the price and the time allowed for any of the performances.

Dispersal Policy

40. A dispersal policy in relation to the premises shall be kept on the premises and produced to the Police and authorised Local Authority Licensing Officers on request.

Advertisements and Marketing

41. Any person connected with or employed by the business who can be observed from outside the premises must be dressed. Scantily clad individuals must not exhibit in the entrance way or in the area surrounding the premises. (Scantily clad shall mean that nudity or underwear is visible).
42. The licensee shall not allow the use of vehicles, including limousines, for the promotion of the relevant adult entertainment.
43. The collection of patrons and or potential clients is not permitted unless the vehicle is licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.
44. The licensee or its agents, servants, employees, contractors or performers shall not tout for business and or customers outside of or away from the licensed premises by any means unless authorised by the Council in writing.
45. The licensee shall ensure that any marketing communications associated with the licensed premises or relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.

Admission of Authorised Officers

46. 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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LICENSING LEGISLATIVE UPDATE

Relevant Portfolio Holder	Councillor P Thomas
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Bromsgrove District Council is responsible for delivering a number of licensing functions regulating a broad range of businesses and activities undertaken in the Council’s administrative area.

This report provides an update for Members of the Council’s Licensing Committee on legislation that has been made or that is proposed, which impacts on the Council’s licensing responsibilities.

2. RECOMMENDATIONS

That the Licensing Committee note the contents of the report.

3. KEY ISSUES

Financial Implications

3.1 There are no direct financial implications arising from the report. Any new licensing schemes introduced should enable local authorities to charge fees to enable them to recover their costs.

Legal Implications

3.2 The Council has statutory duties to carry out certain licensing functions that are the responsibility of local authorities. In carrying out these functions, the Council is obliged to comply with relevant legal requirements and to implement any changes to these requirements that are made from time to time.

Service / Operational Implications

- 3.3 Bromsgrove District Council is responsible for delivering a number of licensing functions regulating a broad range of businesses and activities undertaken in the Council's administrative area.
- 3.4 The Council's Licensing functions are carried out on its behalf by Worcestershire Regulatory Services under the existing shared service arrangements in place between the district Councils in Worcestershire.
- 3.5 This report has been prepared in order to highlight a number of changes to legislation that have been made or are proposed, and which impact on the delivery of the Council's Licensing functions.

Introduction of Tax Checks for Certain Licences

- 3.6 On 4th April 2022, provisions contained in the Finance Act 2021 came into force to introduce new requirements for those applying to local authorities for certain licences. These are:
- Hackney carriage and private hire driver licences
 - Private hire operator licences
 - Scrap metal site licences
 - Scrap metal collector licences
- 3.7 Applicants will be required to complete a tax check if they are:
- renewing a licence
 - applying for the same type of licence they previously held, that ceased to be valid less than a year ago
 - applying for the same type of licence they already hold with another licensing authority
- 3.8 A tax check confirms that the applicant is registered for tax, if necessary. It will ask questions about how they pay any tax that may be due on income they earn from their licensed trade.
- 3.9 After they complete their tax check the applicant is given a 9-character code. This is their tax check code. The applicant must give this code to the licensing authority with their licence application.
- 3.10 The licensing authority then use this code to confirm that a tax check has indeed been completed by the applicant using an online system that has been put in place by HMRC.

- 3.11 For those applicants who are not required to do a tax check (for example someone applying for a licence for the first time) there is a requirement for them to declare that they are aware of the HMRC guidance about their tax obligations.
- 3.12 If an applicant does not complete their tax check or (where applicable) make the relevant declaration, the Council is unable to grant them a licence.
- 3.13 The new tax checking requirements were implemented in April 2022 across Worcestershire and in the vast majority of cases they are not presenting any particular difficulty.

Taxis & Private Hire Vehicles (Safeguarding & Road Safety) Act 2022

- 3.14 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 received Royal Assent on 31st March 2022.
- 3.15 There are two main aspect of the legislation that impact on the Council taxi and private hire licensing functions.
- 3.16 Firstly, since 31st May 2022, if any licensing authority in England has information about a taxi or private hire driver licensed by another authority that is relevant to safeguarding or road safety concerns in its area, it must share that information with the authority that issued that driver's licence.
- 3.17 Any licensing authority provided with such information by another authority must consider whether to suspend or revoke the driver's licence and inform the authority that shared the information of its decision.
- 3.18 The second aspect of the legislation will, once commenced, require licensing authorities in England to input, into a central database, instances where the authority has refused, suspended, chosen not to renew or revoked a taxi or private hire driver's licence based wholly or in part on information relating to the driver concerning safeguarding or road safety.
- 3.19 Before a licensing authority in England decides whether to grant or renew a driver licence, it will be required to search the database for any entry relating to the applicant.
- 3.20 If there is a relevant entry, the authority must contact the recording authority to request the relevant information. The decision-making licensing authority must then have regard to the information provided when making their decision.

- 3.21 The Act gives the Secretary of State for Transport the power to provide or designate the database. The requirement that licensing authorities use the database will commence following regulations made by the Secretary of State for Transport.
- 3.22 Statutory guidance to local authorities on the first aspect of the legislation has been published online and further guidance on the second aspect will also be published in due course when those provisions are brought into force.

Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

- 3.23 The Act, originally introduced as a Private Members Bill, requires all local authorities to maintain and publish a list of all the wheelchair-accessible taxis and private hire vehicles in their area.
- 3.24 It also imposes new duties on drivers of vehicles that are not wheelchair-accessible to carry a disabled person and their mobility aid and provide “reasonable assistance”, without charging extra, for example if a wheelchair-user wants to transfer to the passenger seat and store their wheelchair in the boot of the vehicle.
- 3.25 The Act extends to England and Wales and Scotland, and came into force on 28th June 2022. The key changes include:
- Drivers are obliged to carry and provide fair service to all passengers, regardless of impairment, at no extra cost.
 - The new Bill extends existing laws to cover all disabled passengers, and imposes a fine of up to £1,000 for drivers who fail in their obligation to provide a fair, accessible service.
 - Drivers must provide as much mobility assistance as is reasonably required, including carrying mobility aids.
 - This may involve helping a passenger transfer to the vehicle, folding wheelchairs, adjusting seats, or any other reasonable modification to ensure the trip is safe and comfortable.
 - A new duty requiring that drivers assist disabled passengers to identify and find the vehicle they have booked, without making any additional charge for doing so. This would be on the condition that the driver is made aware before the start of the journey that the passenger requires assistance to identify or find the vehicle. This would be particularly helpful for visually impaired passengers and those with learning disabilities or cognitive impairments.

- Local authorities must keep a register of licensed wheelchair-accessible taxi and private hire vehicles, and must make these accessible to the public.

The Future of Pavement Licensing

- 3.26 In July 2020, in response to the impacts of coronavirus restrictions on the hospitality industry, the Government enacted provisions in the Business and Planning Act 2020 in order to introduce a temporary regime which streamlined the process that relevant businesses needed to follow to obtain permission to place tables and chairs on the highway for use by their customers.
- 3.27 This temporary “pavement licensing” regime become the responsibility of District Councils in areas like Worcestershire where there are both County and District Councils.
- 3.28 The pavement licensing regime was originally intended to be in place until the end of September 2021, but the Government subsequently extended the legal provisions until the end of September 2022 to try and support the economic recovery of the hospitality sector.
- 3.29 When it was published in May 2022, the Government’s Levelling Up and Regeneration Bill contained clauses that seek to put in place a permanent pavement licensing regime based on the temporary regime implemented in July 2020.
- 3.30 As the Levelling Up and Regeneration Bill is likely to take a considerable amount of time to make its way through the Parliamentary process, the Government has once again laid a statutory instrument in Parliament to extend the temporary licensing regime provided for in the Business and Planning Act 2020 until the end of September 2023.

Potential Transfer of Taxi and Private Hire Licensing Functions to Upper-Tier Authorities

- 3.31 In the Government’s White Paper entitled “Levelling Up the United Kingdom” under the heading “Local Transport” the following paragraph has been included:

The UK Government will also explore transferring control of taxi and private hire vehicle licensing to both combined authorities and upper-tier authorities. Taxis and private hire vehicles are a key part of local transport systems, so this would allow LTAs to fully integrate these modes into their Local Transport Plans.

- 3.32 The Levelling Up and Regeneration Bill that is before Parliament at the moment, appears to provide for this by including provisions which would allow the Secretary of State to make regulations to transfer county and district Council functions to a new type of body corporate that the Bill is looking to create called a Combined County Authority (CCA)

Licensing Scheme for Non-surgical Cosmetic Procedures

- 3.33 The Government has announced its intention to introduce a new licensing scheme to regulate certain non-surgical cosmetic procedures such as the injection of Botox and dermal fillers.
- 3.34 The Government has said that the licensing scheme will introduce consistent standards that individuals carrying out non-surgical cosmetic procedures will have to meet, as well as hygiene and safety standards for premises. It will focus on those cosmetic procedures which, if improperly performed, have the potential to cause harm such as Botox and fillers.
- 3.35 The implementation of a scheme has been facilitated by the inclusion of provisions in the Health and Care Act 2022 which enable the Secretary of State to use secondary legislation to introduce a scheme to licence specified cosmetic procedures.
- 3.36 It is anticipated that any licensing scheme that is introduced will be overseen by local authorities and that in two-tier areas like Worcestershire, the function will rest with the relevant district Council.
- 3.37 The Government has committed to carry out consultation on the form of the licensing scheme, including on what cosmetic procedures will require licences to be in place.
- 3.38 It is the intention of officers to bring further reports to the Licensing Committee in due course to provide updates on the implementation of the various legislative measures described in this report.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

5.1 None

AUTHOR OF REPORT

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LICENSING COMMITTEE

11th July 2022

LICENSING COMMITTEE WORK PROGRAMME 2022/23

11th July 2022

Review of Sex Establishment Policy

Legislative Update Report

19th September 2022

Consideration of responses to consultation on draft Street Collections Policy.

Interim Review of Hackney Carriage Table of Fares

Review of Hackney Carriage and Private Hire Vehicle Licensing Policies
(Including ways to amend policy to incentivise licence holders to purchase
wheelchair accessible vehicles and ultra-low / zero emission vehicles)

14th November 2022

Consideration of responses to consultation on draft revised Sex Establishment
Policy

27 March 2022

Annual Review of Hackney Carriage Table of Fares

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