

Canterbury City Council
Sex Establishment Policy
April 2014

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Full Council meeting on 30 April 2015 (at Minute 747(a)) approved the recommendation at Minute No. E186 (below) of the Executive meeting on 12 March 2015 regarding the Revised Sex Establishment Policy

E177 **Minute No. E186**

E178 **REVISED SEX ESTABLISHMENT POLICY**

(Prior to the consideration of this item Mr J Baker spoke on the item).

The portfolio holder introduced the report of the Assistant Director Direct Services and the Head of Safer Neighbourhoods which indicated that the Council adopted its first licensing policy for sex establishments in 2010. The Policy needed to be updated to reflect the current law and the needs of the Canterbury administrative district. The report included a draft version of the Policy and sought approval for the adoption of the Policy to come into effect on 1 May 2015.

The report included details of the representation which had been received following consultation about the revised Policy and these were taken into account by the Executive when making its recommendation below.

The revised Policy now included clear guidance that licences for sex entertainment venues would be considered very carefully in the future in accordance with Policy, legislation and the individual merits of each application.

The Policy included requirements and / or considerations that would be taken into account should any further application be made.

In respect of the options available the Executive Members were asked to recommend to Full Council that the Policy be adopted by the Authority with effect from 1 May 2015 subject to any amendment as a result of the representations submitted. If additional information was required they could ask for a further report.

The Overview Committee had considered the report at its meeting on 4 March 2015 and it had supported the recommendation to the Executive.

In response to the comments of the public speaker, the Assistant Director Direct Services advised that if the Council were to allow any signage for licensed premises it would have to be located in a place which was not visible and this would be a standard condition of the Licence.

RECOMMENDED (to the Full Council) - The adoption of the revised Sex Establishment Policy as set out in the report from 1 May 2015.

Reason for the decision

It is important to have a clear Policy in relation to sex establishments to enable clear and robust decision making. A clear policy will also ensure that such establishments are managed properly to promote the health and safety of the public and performers.

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1.0 INTRODUCTION AND DEFINITIONS

- 1.1 This document sets out Canterbury City Council's Policy regarding the licensing and regulation of sex establishments (sex shops, sex cinemas and sexual entertainment venues) as set out in the Local Government Miscellaneous Provisions Act 1982 (as amended) by the Policing and Crime Act 2009 within the administrative district of Canterbury City Council. This Policy is intended to guide the Council in balancing the needs and interests of businesses, patrons, employees, residents and communities when considering applications for Sex Establishment licences. It informs applicants and objectors of the parameters under which the Council will make decisions.
- 1.2 Whilst the Council has not set a maximum number of establishments for its district in accordance with Schedule 3, Paragraph 12(3)(c) of the Local Government (Miscellaneous Provisions) Act 1982, it is the Council's preference not to increase the current number of establishments. Applicants must demonstrate in any written application submitted, why it is reasonable and appropriate to increase the number of sex establishment licences within the district. Applications for new licences will be considered on their individual merits by the Council.
- 1.3 The Policy sets out an overview of the administrative process for the licensing of sex establishments including particular considerations that the Council will have in relation to the location of premises, which are set out at Section 4. Also included are the Council's Standard Conditions for sex establishments, which shall be considered the basic norm for premises licensed in the Canterbury administrative district.
- 1.4 Once paid, application fees are non-returnable.
- 1.5 Sexual Entertainment Venues may require further licences and permissions under separate legislative regimes to enable them to operate. The Council will process and consider these applications independently of any grant for a sex establishment licence.
- 1.6 **Definitions**

In this Policy the following phrases bear the following meanings:-

The Act

The Local Government (Miscellaneous Provisions) Act 1982 (as amended).

The Council

Canterbury City Council.

Display of nudity

This means:

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

The Licensed Premises

The premises, vessel, vehicle or stall licensed by the Council as a Sex Establishment.

The Licensing Act

The Licensing Act 2003

The Licensing Case Officer

The Council's licensing officer located at Military Road, Canterbury CT1 1YW

The Organiser

Any person who is responsible for the organisation or management of Relevant Entertainment or the Licensed Premises.

Permitted Hours

These are the hours of activity and operation that have been authorised under a Sex Establishment Licence.

The Policy

This document.

Relevant Entertainment

- (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).

An audience can consist of just one person.

It is the nature and not the name of the entertainment which results in its being identified as relevant entertainment.

The definition of relevant entertainment apply to the following terms of entertainment as they are commonly understood:

- lap dancing
- pole dancing
- table dancing
- strip shows
- peep shows
- live sex shows.

Relevant Locality

The locality where premises are situated or where the vehicle, vessel or stall is going to be used. The locality and the area that this covers is a matter for the Council to decide and will be determined on a case by case basis for the purpose of decision making.

Sex Article

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

- (a) sexual activity
- (b) acts of force or restraint which are associated with sexual activity and
- (c) 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
- (d) to any recording of vision or sound, which is:
 - i) 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

Sex Cinema

A "sex cinema" is defined as any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means

- (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.

Sex Establishment

A sex establishment means a sexual entertainment venue, a sex cinema or a sex shop.

Sex Shop

A "sex shop" is defined as any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –

- (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.

Sexual Entertainment Venue (SEV)

A "sexual entertainment venue" is defined as any premises at which **relevant**

entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

The following are premises that are not sexual entertainment venues:

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

Transitional Order

The Policing and Crime Act 2009 (Commencement No 1 and Transitional Saving Provisions) (England) Order 2010.

2.0 BACKGROUND

ORIGINS OF THE LEGISLATION

- 2.1 In 1982 the Local Government (Miscellaneous Provisions) Act introduced a discretionary licensing regime for Sex Shops and Sex Cinemas. These provisions were adopted by Canterbury City Council with effect from 4 January 1983.
- 2.2 In 2005 the Licensing Act 2003 introduced a new licensing regime which amalgamated several pieces of old legislation under the heading of “Regulated Entertainment”. Entertainment of an adult nature such as lap dancing, pole dancing and striptease etc. fell under this heading. However, the power for the community to object to such applications was restricted as any objection needed to relate to the four specified licensing objectives. This made it difficult for local communities to have any control on the number and / or location of these types of venues.
- 2.3 In order to address these concerns the Policing and Crime Act 2009 introduced provisions creating a new category of Sex Establishment known as a Sexual Entertainment Venue (SEV) to enable local authorities to require venues such as lap dancing establishments to be licensed as Sex Establishments. These provisions are also discretionary but the Council adopted them with effect from 6 April 2011. Special transitional provisions have effect for SEVs from April 2011 to 1 April 2012 and these are outlined in Appendix 1.
- 2.6 This Policy applies to all forms of Sex Establishments unless otherwise stated. Whilst the Act allows applicants to apply to the Council for the requirement for a licence to be waived, the presumption is that such applications will be refused. Waivers will only be granted where applicants can establish that exceptional circumstances exist making it unreasonable or inappropriate for the Council to require an application for the premises to be licensed as a Sex Establishment.

3.0 MAKING AN APPLICATION

3.1 All applications (both new and renewal) relating to sex establishments must:

- be made on the Council's prescribed form (which is available from the Licensing Case Officer) and
- Where the application is for a new premises licence, be accompanied by a clearly legible scaled layout plan of the premises showing the area for which a licence is required and a site plan showing the location of the premises. Further guidance is available from the Licensing Case Officer
- be accompanied by the relevant fee.

3.2 Applications to increase the size of existing premises should be made as a new licence application.

3.3 Changes to the permitted hours, internal layout of the premises and licence conditions may be made by way of a variation to the licence.

3.4 Applicants must:

1. Serve a copy of their application on the police at the address stated in the application form.
2. Give public notice of the application in the form prescribed by the Council. A copy of this form is available from www.canterbury.gov.uk.
3. Notice of the application must be given by publishing an advertisement in the Gazette or other paper circulating widely in the Canterbury administrative district not later than 7 days after the date of the application.
4. Where the application relates to premises, display a copy of the notice for 21 days beginning with the date of the application on or near the premises and in a place where the notice can be conveniently read by the public.
5. Provide a copy of the notice, the relevant page of the newspaper containing the advertisement, and a certificate confirming that the application has been publicised and served in compliance with the legislation to the Licensing Case Officer.

3.5 Any failure to comply with the requirements of paragraphs 3.1 and 3.2 above may result in the application being deemed invalid and being rejected.

3.6 The application processes and fees for the grant, variation, renewal and transfer of a sex establishment have been established by Canterbury City Council with regard to The European Services Directive: Guidance for Local Authorities and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees within the service sector.

3.7 Variations

Whilst applicants for variation of an existing licence are not legally obliged to advertise their applications and serve a copy on the police, it is the Council's policy that they should comply with paragraph 3.4 above.

3.8 Once an application has been received the Licensing Case Officer will consult other relevant officers of the Council, local Councillors, and other relevant partners and stakeholders so as to gather appropriate information to be placed

in the report to the Committee regarding the character of the relevant locality, the use to which any premises in the vicinity are put, and as to the layout, character, and condition of the premises.

3.9 Any person wishing to object to an application must do so in writing within 28 days of the date of the application stating the general terms of the objection. Objections received after this date may only be considered at the discretion of the Council if it feels that they are relevant.¹ In determining whether to exercise the discretion to take late representations into account, the Council will have regard to the following:

- how late the objection is
- whether there is a good reason for the objection being late or whether the lateness was intentional
- whether it introduces new grounds of objection or information or whether it merely repeats other objections which were made in time
- whether consideration of the late objection would result in unfairness to the applicant or disrupt the Committee's procedures.

In appropriate circumstances the Council may defer determination of an application to allow the applicant time to respond to any late objections.

3.10 Applicants will be given notice of any objections that are received though the names and addresses of objectors will not be disclosed unless the objector gives the Council permission to do so.

3.11 With the exception of uncontested transfer applications, all applications relating to Sex Establishments will be heard by a meeting of the Council's Licensing Sub-Committee within six weeks of the final date for objections. Both applicants and objectors will be invited to attend. The hearing procedure is outlined in section 5.

¹ Belfast City Council v Miss Behavin' Ltd Northern Ireland [2007] UKHL 19 [2007] LLR 312

4.0 DETERMINATION OF APPLICATIONS

4.1 Each application will be determined on its own merits.

4.2 Any application for a new licence proposed upon the surrender of an existing licence will be considered on its individual merits.

4.3 Applications for the grant of a sex establishment licence at any premises where a licence has been refused upon renewal, or has been revoked shall not be considered as exceptional.

Applications may be refused on certain defined mandatory or discretionary grounds.

4.4 Mandatory grounds

The Council must not grant a licence:-

- to a person under the age of 18; or
- to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months; or
- to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- to a body corporate which is not incorporated in an EEA 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.

4.5 Discretionary grounds

The Council may refuse an application for the grant or renewal of a licence if:

- the applicant is unsuitable to hold the licence by reason of conviction of an offence or for any other reason; or
- the business would be managed or carried on for the benefit of a person other than the applicant who would be refused the licence if they made the application themselves; or
- the number of sex establishments, or sex establishments of a particular type, in the relevant locality at the time the application is made is equal to or exceeds the number the number which the Council considers appropriate for that locality; or
- the grant or renewal of the licence would be inappropriate, having regard to the:
 - i) character of the relevant locality; or
 - ii) use to which any premises in the vicinity are put; or
 - iii) layout, character or condition of the premises to which the application applies.

The Council has a wide discretion with regard to variation applications and may refuse the application if it thinks fit.

Transfer applications can only be refused if the:

- applicant is unsuitable to hold the licence by reason of conviction of an offence or for any other reason; or
- business would be managed or carried on for the benefit of a person other than the applicant who would be refused the licence if they made the application themselves.

4.6 **Suitability of the Applicant**

The applicant must demonstrate that he / she is a suitable person to hold a licence. In determining suitability, the Council will normally take into account:

- previous knowledge and experience of the applicant;
- information relating to the operation of any existing / previous licence held by the applicant, including any licence held in any other local authority area;
- information about the applicant and their management of the premises received from objectors, Council officers or the police, including any known criminal convictions or cautions the applicant, or officers of any corporate applicants may have;
- any other relevant information.

The above factors are not an exhaustive list of considerations but are merely indicative of the types of factors which may be considered in dealing with an application. Similar considerations may also apply to persons whom it is alleged would benefit from the grant of the application but would be unsuitable to hold the licence themselves. In such cases the Council will also have regard to any evidence to show that the business would in fact be carried on for their benefit.

4.7 **Character of the Relevant Locality and use of other premises in the vicinity**

The Council will not grant or renew a licence for a Sex Establishment if, in the Council's opinion, it would be inappropriate to do so with regard to the character of the Relevant Locality or if the appropriate number of Sex Establishments, (or of a particular type of Sex Establishment,) in that Locality would be exceeded.

Sex establishments will not normally be licensed near to:

- housing;
- schools, play areas, nurseries or children's centres;
- access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises;
- family shopping or leisure areas;
- health facilities, community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres / clubs;

- historic buildings or tourist attractions;
- places of worship;
- other premises where relevant entertainment takes place;
- other sensitive uses that may be relevant

where the proximity to such uses is likely to be considered by the Council to be inappropriate having regard to the relevant locality and the use to which any premises in the area are put.

The spatial distribution of licensed premises is very relevant particularly with consideration to their impact upon the character of the locality. The Council will have regard to the uses of all other premises in the area as well as any potential adverse impact on:

- any planned or proposed regeneration of the area;
- tourism;
- the retail or commercial attraction of the area;
- any relevant planning considerations such as whether the premises are in a Conservation Area or areas designated as primarily residential or prime retail frontage.

The Council will also have regard to the following factors:

- any existing licensing permissions for the premises;
- the proximity of other licensed premises in the surrounding area and the terms of those licences;
- the planning permission for the premises and surrounding uses;
- any complaints or reports of nuisance, disturbance, crime and/or disorder caused by or associated with the premises;
- the nature of the day time and night time economies in the surrounding area
- the proximity of other Sex Establishments.

4.6 **Layout, Character and Condition**

The Council will not grant or renew a licence for a Sex Establishment if, in the Council's opinion it would be inappropriate having regard to the layout, character and condition of the proposed Sex Establishment. Whilst not intended to be an exclusive list, the Council will have particular regard to the following, the:

- type of activity to which the application relates;
- days and hours of operation of the activity;
- layout and condition of the premises with particular concern for public safety, health and safety and the prevention of crime and disorder.

4.7 **Disability Access**

Applicants are reminded of their duties under the Disability Discrimination Act 1995 and should provide such facilities so as to enable the admission of

disabled people.

4.8 **Conditions**

Any licence granted by the Council, shall be subject to the relevant standard conditions outlined in Appendix 2 (unless the Council determines to the contrary) and to any special conditions which the Council imposes.

4.9 **Duration**

An application for a new licence or renewal of an existing licence may granted by the Licensing Sub-Committee for a period of up to a maximum of 12 months.

5.0 HEARINGS

- 5.1 With the exception of uncontested transfer applications, all applications relating to Sex Establishments will be heard by a meeting of the Council's Licensing Sub-Committee. It will be the general practice of the Council to exercise its discretion to invite the police and / or others who have lodged objections to appear and be heard at any hearings in addition to the applicant. In deciding whether to exercise the discretion the Council will consider the facts surrounding each particular application and will aim to act fairly at all times.
- 5.2 Officers will notify the applicant, police and objectors of the date and time of the hearing.
- 5.3 The parties must give notice to the Council stating:
 - (a) whether they will attend the hearing; and
 - (b) the names and addresses of any witnesses that they intend to call; and
 - (c) a time estimate for their representations to the Committee.
- 5.4 An Agenda will be circulated prior to the hearing. This will include a copy of the application, a copy of any representations made by the Police, and a summary in general terms of any objections received. The identity of the objector(s) will not be made known without their prior consent although information as to the general vicinity in which the objector(s) live may be included.
- 5.5 Whilst additional material in support of the application or representation may be taken into account at the hearing, such material should be provided to the Council as soon as possible and at least five working days before the hearing.
- 5.6 Where there has been a failure to adhere to paragraph 5.4 above or where additional material is produced at the hearing, this will only be admitted at the discretion of the Committee. This will usually be allowed only in exceptional circumstances and if the late production does not prejudice any other party in being able to respond fully.
- 5.7 Late objections / representations will be dealt with in accordance with paragraph 3.6 above.
- 5.8 Where a party does not attend the hearing and is not represented the Council may either adjourn the hearing, or may continue with the hearing in the party's absence. If the latter option is followed the Committee will still consider any application, representation or notice submitted by the absent party in so far as it is relevant.
- 5.9 The hearing will concentrate on matters which are relevant to one or more of the grounds upon which a licence may be refused under the schedule 3 of the Act. See Section 4 above.
- 5.10 The hearing will be inquisitorial and not adversarial. The procedure outlined in Appendix 3 will normally be followed.

6.0 APPEALS

6.1 Appeals against decisions of the Council are generally made to the Magistrates' Court and appeals against decisions of the Magistrates may be made to the Crown Court. Not all decisions carry a right of appeal.

6.2 The only persons entitled to appeal are the:

- (i) applicant for the grant, renewal, transfer of a licence whose application has been refused;
- (ii) applicant for the variation of the terms, conditions or restrictions of a licence whose application for variation has been refused;
- (iii) holder of a licence who is aggrieved by any terms, conditions or restriction on that licence;
- (iv) holder of a licence whose licence is revoked.

6.3 There is no right of appeal for:

- objectors;
- an applicant who has been refused the grant / renewal or transfer of a licence on any one of the mandatory grounds unless he seeks to show that the ground for refusal does not apply to him
- an applicant who is refused a licence on the grounds:
 - (i) That there are sufficient sex establishments in the locality; or
 - (ii) That to grant the licence would be inappropriate having regard to the relevant locality, use to which premises in the vicinity are put, or the layout, character, or condition of the establishment.

The only means of challenge available in these cases is by way of judicial review.

6.4 Any application for an appeal must be lodged within 21 days from the date that the applicant was notified in writing of the decision against which he / she is appealing. A fee will be payable and the relevant Court will advise as to the amount.

7.0 ENFORCEMENT

- 7.1 All decisions, determinations, inspections and enforcement action taken by the Council will have regard to the relevant provisions of the Act, and the enforcement policy of the Council which is produced to the principles of the Enforcement Concordat and the Regulators Compliance Code.

8.0 MONITORING AND REVIEW OF THIS POLICY

- 8.1 This Policy will be reviewed as and when appropriate. In preparing any succeeding Policy regard will be had to data and information collated over the operating period of the current policy.

9.0 EQUALITY AND DIVERSITY

- 9.1 Delivery of this licensing regime will be in accordance with the Council's Equality and Diversity Policy. The use of an Impact Needs Assessment process will inform service delivery and will be subject to on-going monitoring and customer / stakeholder consultation during the life of this Policy with the framework of the regime. Relevant matters that come to light as a result of monitoring and consultation may result in changes to service delivery and where necessary may result in changes to this Policy.
- 9.2 Advice and guidance will be made available in English which is the most common language of customers and stakeholders. Guidance documents issued by the Business Support Unit will include advice about translation and access to information about services, however, it is recognised that local communities will normally have access to alternative translation and advice services. The Council will also signpost customers to other providers of guidance and information relevant to the regime but are not responsible for the accuracy of such information.

CONTACT DETAILS & FURTHER INFORMATION AVAILABLE FROM:

WEBSITE: www.Canterbury.gov.uk

E:MAIL: business.support@canterbury.gov.u

APPENDIX 1

STANDARD CONDITIONS

SEX SHOPS & SEX CINEMAS

1. The Premises shall be maintained in accordance with the lay out plan attached to this Licence. Amendments to the layout of the premises and / or any structural or physical alteration must be approved by way of an application for variation of this licence unless otherwise agreed in writing by the Council
2. No-one shall be admitted to the premises who is, or appears to be, under the age of 18.
3. No person under the age of 18 shall be employed on the premises.
4. The Licensee or some responsible person nominated by him in writing for the purpose shall be in charge of and present on the premises while they are open to the public.
5. No change may be made from a Sex Shop to a Sex Cinema, or Sexual Entertainment Venue or vice versa.
6. A window display shall be maintained to the satisfaction of the Council in all windows of the Licensed Premises. Such display shall not include any Sex Articles or other indecent matter.
7. No Sex Articles shall be displayed within the premises as to be visible to passers by, whether the doors are open or closed.
8. For the purposes of these conditions:
 - i) The Council means Canterbury City Council
 - ii) Sex Article has the meaning assigned to it in Paragraph 4 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
 - iii) Sex Cinema has the meaning assigned to it in Paragraph 3 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
 - iv) Sex Shop has the meaning assigned to it in Paragraph 4 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
 - v) Sexual Entertainment Venue has the meaning assigned to it in Paragraph 2A of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

SEXUAL ENTERTAINMENT VENUES

SEXUAL ENTERTAINMENT VENUE LICENCE CONDITIONS

1.0 Risk Assessments:

- 1.1 Risk assessments will be carried out and documented to the reasonable satisfaction of the Kent Police and shall be lodged with them prior to this licence being used. The assessments shall cover following areas:
- a) the prevention of crime and disorder;
 - b) safeguarding children;
 - c) areas designated for the performance of dance and entertainment; and,
 - d) levels of security at the premises.
- 1.2 Any steps identified in such risk assessment as being required to negate or lessen risks, are to be carried out by no later than 30 days from the date Kent Police indicates satisfaction with the said risk assessment, or such other date as Kent Police may agree.
- 1.3 The risk assessments are to be reviewed annually by the renewal date of this Licence. Copies of the reviewed documents shall be deposited with Kent Police and shall clearly show the date of review, and any amendments made. All amendments must be agreed with the Police.
- 1.4 A risk assessment shall be conducted for all events involving outside promoters and this will be supplied to the Police 14 days prior to the event.

2.0 The Licensee

- 2.1 The Licensee shall at all times conduct the premises in a decent, sober and orderly manner. In particular the Licensee shall take whatever steps are necessary to ensure that none of the following takes place:
- a) indecent behaviour including sexual intercourse;
 - b) the offer of any sexual or other indecent service for reward;
 - c) unlawful possession and / or supply of drugs controlled by the Misuse of Drugs Act 1971;
 - d) any acts of violence against persons or property and / or the
 - e) attempt or threat of such act likely to cause a breach of the peace.

3.0 Age

- 3.1 No person under the age of 18 years shall be allowed in any part of the premises when adult entertainment is taking place.
- 3.2 A Challenge 25 scheme shall operate at the premises. Any person who appears to be under 25 years of age shall not be allowed entry unless they produce an acceptable form of identification (passport or driving licence with photograph).

4.0 Adult Entertainment

- 4.1 There shall be no advertisement or promotional material used by the premises

which is unsuitable to be viewed by children, for example, by way of sexually provocative imagery or which suggests or indicates that relevant entertainment takes place on the premises.

- 4.2 The use of any cruising cars or any other wheeled carriage [whether for the purposes of hire or reward or not] by the premises to solicit customers and / or transport to or from the premises is prohibited.
- 4.3. The use of flyers and similar promotional material for the premises is prohibited.
- 4.4 A clearly visible tariff of entrance and other compulsory charges shall be provided immediately within the entrance to the premises.
- 4.5 No charge shall be applied unless the customer has been made aware of the tariff of charge by the performer in advance of the performance.
- 4.6 Performers shall not be less than 21 years old. Only performers engaged by the premises management may perform striptease / erotic dance. No manager or member of staff under 21 years may engage a performer.
- 4.7 The Licensee is to ensure that prior to engagement all performers, including performers from agencies, provide documents proving that they are over 21 years of age and documents proving that they are legally entitled to work in the UK. Such documents are to be copied and retained on the performer's file. File to include a full facial photograph of each performer.
- 4.8 All performer files are to be retained for a period of six months after their engagement ends, and made available to the statutory authorities upon request if required for investigative purposes.
- 4.9 Where the Licensee employs performers from an agency, the performers must still provide the relevant documentation as required in the condition above. Details of agencies providing performers are to be made available to the statutory authorities upon request.
- 4.10 Performers will be provided with access to a dedicated pastoral care room set up so as to support their well being including a pack of information setting out:
 - (a) a copy of the premises' sex establishment licence;
 - (b) an explanation of how to report crime to the relevant authority;
 - (c) details of the premises public liability insurance;
 - (d) an explanation of how dancers can obtain public liability insurance;
 - (e) details of unions or other bodies that represent dancers' interests;
 - (f) the premises house rules;
 - (g) the customer house rules;
 - (h) an explanation that there is no fining policy at the premises;
 - (i) list of prices for drinks and sexual entertainment.
- 4.11 Performers will be provided with access to a suitable pastoral care person who will be available for their well being during the times that performances are given.
- 4.12 Entertainment, including dancing, which involves nudity or sexual performances of any kind, must not be visible from outside of the premises.

- 4.13 Performers shall be provided with separate, private and secure changing and smoking facilities from the public facilities.
- 4.14 No person other than performers and authorised staff shall be permitted in the changing facilities. The entertainment provided at the venue shall only be given by performers who are exclusively engaged for that purpose.
- 4.15 No performers shall be allowed to work at the premises if they are under the influence of illegal drugs or are considered to be in a drunken state.
- 4.16 There shall be no inappropriate contact, or physical contact of a sexual nature between the performers, other staff and / or customers, before, during, or after the performance.
- 4.17 The entertainment provided shall be restricted to dancing and removal of clothes and there shall be no other form of sexual activity including any digital penetration. Erotic dancing only to be performed in designated areas. Dancers shall keep their genital areas covered by an opaque article of clothing at all times whilst in the main public view. During a private dance all clothing can be removed.
- 4.18 No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982). No articles of any kind may be used for penetration.
- 4.19 Performers shall not use any props or clothing in the Act, which portrays them as a child (under 16).
- 4.20 Customers shall not be permitted to touch the dancers except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of the lap dancing entertainment. Notices to this effect shall be clearly displayed at each table and at the entrance of the licensed premises.
- 4.21 No voluntary audience participation will be permitted and all customers must remain seated and fully clothed during a performance unless for the purposes of using sanitary facilities or for entering or leaving the premises.
- 4.22 Dancers shall re-dress at the conclusion of the performance and are to remain fully clothed (minimum bikini top and bottom) at all times except when giving a performance.
- 4.23 There shall be no advertising or display outside of the premises to the general public, of photographs or other images displaying topless or nude dancers, or showing anything of a sexual nature including any kind of mobile advertisement. For the avoidance of doubt, a mobile advertisement includes advertisements on any vehicle, bicycle or person which shall be not used in the Canterbury administrative district.
- 4.24 A member of staff will be available to escort performers from the premises to their own / public transport or taxi at the end of their working day if requested to do so.
- 3.20 The Licence Holder will adhere to and enforce "Customer House Rules" which will be clearly displayed for all customers to see and will include the following terms:
- (a) there shall be no inappropriate touching of the dancers at any time;
 - (b) no verbal abuse will be tolerated. Any customer being abusive will be

- ejected from the premises;
- (c) no irresponsible behaviour by customers will be allowed. Any customer engaging in such behaviour will be ejected from the premises;
- (d) any customer behaving in any other unacceptable manner will be asked to leave the premises;
- (e) no customer shall accept from or give to any performer or member of staff any telephone number, business card or note.

4.25 The Licence Holder will adhere to and enforce the premises House Rules which will be clearly displayed for all performers and staff to see in the changing and pastoral rooms and will include the following terms:

- (a) performers shall behave responsibly at all times and professionally perform appropriately choreographed dance routines;
- (b) no performer will accept from or give to a customer any telephone number, business card or note;
- (c) there shall be no inappropriate touching or contact between performers before, during or after performances;

4.26 The Licence Holder shall ensure that all dancers / entertainers performing at the premises have signed a declaration to confirm that they are aware of, have understood, and will abide by these Rules. The Licence Holder shall retain this declaration until such time as the dancer / entertainer ceases to perform at the premises.

4.27 No films shall be shown at the premises unless they have been passed by the British Board of Film Classification. No films classed as R18 shall be shown on the premises.

4.28 No alterations to the layout plan of the premises may be made without the prior written approval of the Council. A plan showing the siting of the customer smoking area, performer smoking area, the positioning of CCTV cameras and panic alarm positions shall be submitted to the council before the premises is used for relevant entertainment.

5.0 Records

5.1 A record shall be kept of anyone refused admission to the premises or refused service (the Refusals Log). Details contained in this record shall show the:

- basis for the refusal;
- person making the decision to refuse; and
- date and time of the refusal.

5.2 This record shall be retained at the premises for at least one year from the date of refusal, and shall be made available for inspection and copying by Kent Police and authorised officers of the Council, immediately upon request. Refusals should be reported immediately to the Police if it gives concern to the safety of the staff, performers or members of the public.

5.3 An incident / accident book shall be kept to record all instances of disorder, damage to property and personal injury at the premises. This book shall be made available for inspection and copying by Kent Police and authorised officers of the Council

immediately upon request, and all such books shall be retained at the premises for at least one year from the date of the last entry.

- 5.4 Any seizures of drugs, weapons or other property shall be recorded, together with any details that may help the Police identify the person and details of how and where the article was seized. This record shall be retained at the premises for at least one year from the date of the last entry. This record shall be made available for inspection and copying by the police immediately upon request.
- 5.5 A record shall be kept and updated daily, containing the names, dates of birth, SIA registration number and hours worked of door supervisors employed on each day that the premises operate. This book shall be kept at the premises for at least one year from the date of the last entry and shall be made available for inspection and copying by Kent Police and authorised officers of the Council immediately upon request.
- 5.6 The premise owner must maintain an annual registration with the Information Commissioners Office - as stipulated under the Data Protection Act 1998.

6.0 Notices

- 6.1 Notices will be displayed at the entrance to the premises advising customers that random searches will be carried out and admission will be refused to customers who do not give their consent to being searched.
- 6.2 The current set of customer's House Rules shall be displayed in the foyer of the premises at all times so as to be clearly visible as well as on each table and in each cubicle or booth in the private dance area.
- 6.3 A clear notice shall be displayed in a prominent position so that it can easily be read by persons entering the premises stating:
- 'No persons under 18 years of age permitted.'

7.0 Safety and Security

- 7.1 The Licensee shall ensure that during the hours the premises are open for business every employee, with the exception of performers, wears an identification badge of a type to be approved by the Council.
- 7.2 The entire premises including bar, lockers, etc, to be monitored by CCTV (excluding toilets used solely as such). Sufficient staff shall be trained to use the system. All cameras will record continuously and will be monitored by members of staff during the time the premises are open to the public. Images shall be of evidential quality and shall be retained for at least 28 days. Recordings shall be made available immediately upon request to Kent Police and authorised officers of the Council.
- 7.3 No person shall take any video recordings or photographs of the authorised entertainment. Notices to this effect shall be clearly displayed within the venue.
- 7.4 There will be a minimum of [insert number] Door Supervisors, registered with the SIA, employed (of which at least one is male and one is female) whenever the premises are operating as a Sex Entertainment Venue. Door staff will conduct

random searches of customers prior to admission for drugs and weapons. Anyone refusing to be searched will be refused entry.

- 7.5 Whilst lap dancing performances are taking place no less than one door supervisor, registered with the SIA, shall be employed in the part of the premises used for private dancing within close reach of a panic alarm.
- 7.6 At least two external door supervisors registered with the SIA shall patrol in the vicinity of the premises during opening hours to ensure that customers do not behave in a way which disturbs local residents.
- 7.7 No one under the age of 21 and no one who has without at least 5 / 3 years relevant experience in managing SEV premises shall be left in charge of the premises whilst they are open to the public
- 7.8 The toilets at the premises shall be checked for drugs use and evidence of drug supply taking place at least daily during the times that the premises are open to the public. Records of such checks shall be kept in the incident book.
- 7.9 If drugs are found during a personal search, or whilst being used within the premises, the Licence Holder or Manager shall ensure, if safe and practicable, that a clear image of the person found in possession will be captured on CCTV. Following a risk assessment of the situation arising from the find, any person found using or in possession of drugs shall be detained if it is safe and practicable to do so, and the police shall be called immediately.
- 7.10 Any drugs or weapons found on the premises, either during a search of any person or otherwise, will be confiscated and stored in a secure container prior to being handed over to the police, which must be done as soon as is practicable.
- 7.11 The Licence Holder or person nominated by him in writing to be in charge on any specified occasion shall ensure that any door staff employed at the premises wear and clearly display their SIA registration badge at all times whilst on duty.
- 7.12 The Licence Holder and their staff shall liaise and co-operate closely with Kent Police in respect of any initiative in relation to drugs, weapons, or like matters.

APPENDIX 2

HEARINGS PROCEDURE

1. The following procedure will ordinarily be followed at the Licensing Sub-Committee hearing:
 - (i) The Chair will introduce him / herself, the other members and officers attending. The applicant, then the police and objector(s) (if invited and present) will introduce themselves and their witnesses. The Chair will outline the procedure to be followed and explain any time limits imposed on representations.
 - (ii) The applicant will present his case and ask his / her witnesses to give their evidence. The applicant and each witness, after giving their evidence, may, at the discretion of the Chair, be asked questions by the police, the objector(s), the Sub-Committee members, Licensing Case Officer and the

Legal adviser.

- (iii) The police and objector(s) (if invited and present), in turn, will then be asked to make their representations following which they will be asked questions by the applicant, the Sub-Committee and legal adviser.
 - (iv) Once all parties have given their evidence and all questions have been asked, each party will be asked to sum up their case. The order of summing up will be the police and the objector(s) (if present), and the applicant last.
 - (v) Hearings will normally be conducted in public however, the Sub-Committee does have powers of exclusion (which cover the public, the press, and even applicants, objectors and their representatives) in appropriate circumstances.
2. Whilst it will only hear representations which are relevant, the Sub-Committee is not restricted to considering any objections raised. In coming to a decision it will consider all relevant information, including observations by Council officers, the police and objectors (whether or not these parties are invited to speak at the hearing), representations by the parties at the hearing, as well as the local knowledge of the members of the Sub-Committee.
3. Due to time constraints, applications for adjournments will only be granted when absolutely necessary, taking into account the following:
- (i) Once a hearing date has been set it is for the parties to ensure that they can attend or are represented. Hearings may proceed in the absence of a party and their representations will be taken into account.
 - (ii) If it is not possible for a party or their witnesses to attend the hearing then the Council's preference will be for the hearing to proceed and the representation to be given by way of written evidence.
 - (iii) Any party who wishes to make an application for an adjournment should seek the consent of all other parties to the application and notify the Council as soon as possible that an adjournment is being sought. If all parties agree the matter may be adjourned administratively.
 - (iv) If an adjournment is not agreed administratively prior to the hearing, then the matter will remain listed and the application for the adjournment will be heard and the Sub-Committee will decide whether to allow the adjournment or to proceed on written evidence.
 - (v) The Council may adjourn proceedings of its own motion where it considers it necessary for its consideration of any application or objection.
 - (vi) Where an adjournment is granted all parties will be notified soon as possible and notified of the new hearing date.
4. In coming to a decision the Sub-Committee will have regard to any rights the applicant may have under the European Convention on Human Rights, Article 10 (right of freedom of expression) and Article 1 Protocol 1 (protection of property), as qualified, and will weigh them in the balance.

5. At the end of the hearing the Sub-Committee will retire to make their decision. In all cases the Sub-Committee will try to make their decision and to communicate this, with reasons, within a reasonable time of retiring. Where this is not possible the committee may:
 - (i) announce their decision on the day with reasons to follow; or
 - (ii) delay their decision and reasons for a set period.
6. However the decision is delivered, it will always be followed up with written notification of the decision to all parties, including full reasons, and information, where relevant, about the appeals process.