

AGENDA



- Committee - **LICENSING COMMITTEE**
- Date & Time - Wednesday, 15 March 2023 at 6.30 pm
- Venue - Meeting Room 1, Council Offices, Priory Road, Spalding

Membership of the Licensing Committee:

Councillors: A C Beal, F Biggadike, H J W Bingham, M D Booth, A Casson, A C Cronin, H Drury, J L King, P A Redgate (Vice-Chairman), G T D Rudkin, G P Scalese, J Tyrrell (Chairman), A R Woolf and C N Worth

Quorum: 5

Persons attending the meeting are requested to turn off mobile telephones

Democratic Services
Council Offices, Priory Road
Spalding, Lincs PE11 2XE

Date: 7 March 2023

Please ask for Democratic Services: Telephone 01775 764838
e-mail: demservices@sholland.gov.uk

AGENDA

1. Apologies for absence.
2. Minutes - (Pages
3 - 6)
To sign as a correct record the minutes of the meeting held on 1 February 2022 (copy enclosed).
3. Declarations of Interest -
Where a Councillor has a Disclosable Pecuniary Interest the Councillor must declare the interest to the meeting and leave the room without participating in any discussion or making a statement on the item, except where a Councillor is permitted to remain as a result of a grant of dispensation.
4. Sex Establishments and Sexual Entertainment Venues Policy - (Pages
7 - 30)
To review the Council's Policy Statement for Sex Establishments established under the Local Government (Miscellaneous Provisions) Act 1982 (As amended by Section 27 of the Policing and Crime Act 2009) (report of the Assistant Director - Regulatory enclosed).
5. Taxi and Private Hire Licensing - (To
Follow)
To review and approve for consultation the updated Taxi and Private Hire Licensing Policy.
6. Any other items which the Chairman decides are urgent. -

NOTE: No other business is permitted unless by reason of special circumstances, which shall be specified in the minutes, the Chairman is of the opinion that the item(s) should be considered as a matter of urgency.

Minutes of a meeting of the **LICENSING COMMITTEE** held in the Meeting Room 1, Council Offices, Priory Road, Spalding, on Wednesday, 1 February 2023 at 6.30 pm.

PRESENT

J Tyrrell (Chairman)
P A Redgate (Vice-Chairman)

A C Beal
M D Booth
A Casson

G T D Rudkin
G P Scalese
A R Woolf

C N Worth

In Attendance: The Head of Public Protection, the Licensing Officer, the Assistant Licensing Officer and the Democratic Services Assistant

Apologies for absence were received from or on behalf of Councillors F Biggadike, H J W Bingham and J L King

7. **MINUTES**

Consideration was given to the minutes of the meeting held on 29 June 2022.

AGREED:

That the minutes of the meeting be signed as a correct record.

8. **DECLARATIONS OF INTEREST**

There were none.

9. **CHARITABLE HOUSE TO HOUSE COLLECTIONS POLICY**

Consideration was given to the report of the Head of Public Protection which sought the approval of a Charitable House to House Collections Policy.

The Head of Public Protection introduced the report and stated that the Policy had previously been considered by the Committee back in June and was in front of the Committee again for final approval following consultation.

There had been 2 responses received to the consultation regarding concerns about cold calling homes of vulnerable residents in darkness. While the House to House Collections Act 1939 that underpinned the Policy did not allow for prohibition of this but amendments had been made to the Policy to advise against this.

AGREED:

That the Charitable House to House Collections Policy be approved.

LICENSING COMMITTEE - 1 February 2023

10. CHARITABLE STREET COLLECTIONS POLICY

Consideration was given to the report of the Head of Public Protection which sought the approval of a Charitable Street Collections Policy.

The Head of Public Protection introduced the report which formalised local requirements regarding the Police, Factories, etc (Miscellaneous Provisions) Act 1916. The legislation does not require a formal policy to be adopted but the policy enabled a transparent and consistent approach while also protecting the general public.

One response had been received to the consultation relating to the use of animals to support collections. The Policy had been amended to reflect that animals were not permitted to be used to support collections.

AGREED:

That the Charitable Street Collections Policy be approved.

11. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT.

Officers had received question from a Member who was unable to attend the meeting, pertaining to:

- Taxi companies in Donington had been parking inappropriately outside schools, could the Licensing Committee write to these companies to make them aware of what their drivers were doing and the standards of behaviour for taxi drivers.
 - Officers confirmed that it depended on where they were parked and what restrictions were in place. Officers had previously written to operators but would write to them again. SHDC had also offered to conduct a visit at the site in conjunction with LCC.
 - Further investigation was required for this particular situation.
- Members asked whether taxis should be parking in disabled bays in Spalding Town Centre.
 - Officers commented that this issue had come up periodically in the past. If Members were aware of a particular taxi firm regularly parking in disabled, they needed to contact the Licensing team who could conduct further enquiries.
- If a taxi driver was disabled themselves and were unable to help a customer, does this need to be made known to the customer prior to the journey being made?
 - Officers confirmed that under the Equality Act 2010, drivers must give reasonable assistance, but medical exemptions could be given to drivers who were unable to give assistance.
 - Any drivers with medical exemptions needed to be notified to SHDC but the team were not aware of any disabled taxi drivers in the District who had applied for an exemption.

LICENSING COMMITTEE - 1 February 2023

- Were Animal Welfare inspections back on track and was there still an issue with vet availability and staff training to carry out the inspections?
 - Officers responded to confirm that the team were up to date with programmed inspections and there were currently 5 premises to follow up with.
 - There had been 17 new applications for animal welfare licences, 9 since November which all required an inspection prior to issuing of a licence.
 - The Licensing Officer had recently completed the BTEC Level 3 Certificate qualification to carry out animal welfare inspection and it was envisioned that the Assistant Licensing Officer would also undertake the same qualification in the near future.
 - The team were now working with a vet in Peterborough to carry out inspections.
 - Officers also noted that there had been an unprecedented increase in all types of Licensing applications over the last 6 months which was putting additional pressure on the Licensing team.

(The meeting ended at 7.03 pm)

(End of minutes)

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REPORT TO:	Licensing Committee
DATE:	Wednesday, 15 March 2023
SUBJECT:	Sex Establishments and Sexual Entertainment Venues Policy
PURPOSE:	To review the Council's Policy Statement for Sex Establishments established under the Local Government (Miscellaneous Provisions) Act 1982 (As amended by Section 27 of the Policing and Crime Act 2009)
KEY DECISION:	No
PORTFOLIO HOLDER:	Portfolio Holder for Public Protection
REPORT OF:	Christian Allen, Assistant Director Regulatory
REPORT AUTHOR:	Donna Hall, Head of Public Protection
WARD(S) AFFECTED:	All wards
EXEMPT REPORT:	No

SUMMARY

Members of the Licensing Committee are asked to consider and approve the Sex Establishments Policy as required under the Local Government (Miscellaneous Provisions) Act 1982 (As amended by Section 27 of the Policing and Crime Act 2009)

RECOMMENDATIONS

That the Licensing Committee consider and approve the 'Sex Establishments and Sexual Entertainment Venues Policy'.

REASONS FOR RECOMMENDATIONS

To ensure the licensing authority has an up-to-date policy to deal with applications and licences for sex establishments under the Local Government (Miscellaneous Provisions) Act 1982 (As amended by Section 27 of the Policing and Crime Act 2009)

OTHER OPTIONS CONSIDERED

Do nothing and do not consider the review of the policy.

1. BACKGROUND

- 1.1 On 14 February 2011 South Holland District Council adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) which brought sexual entertainment venues under the same licensing regime as sex shops and sex cinemas.
- 1.2 Sex Establishments fall into one of the following three categories:
- Sex Shops
 - Sex Cinemas
 - Sexual Entertainment Venues
- 1.3 A Sex Establishment Policy was developed detailing the application process and standard conditions that would be applied to sex shops and sexual entertainment venues. The policy has been in force since April 2013 and was reviewed in November 2017.
- 1.4 In reviewing the Policy in 2017, minor amendments were made to bring the policy up to date.

2.0 REPORT

- 2.1 There have been no changes in legislation or guidance, and so there are no substantive changes being recommended to the policy at this time.
- 2.2 There have been no applications received since the adoption of the Schedule to apply for a Sex Establishment. As such there is no reason to make a change to the recommendation of nil establishments.
- 2.3 As consultation on the policy is not a statutory requirement, it is advised that the minor amendments are made and accepted.
- 2.4 The only amendments to the policy that are recommended at this time are the amendment to population and geographical information in section 1, and the additional section 4.4 which refers to the last update in 2017.

3.0 CONCLUSION

- 3.1 The Committee are asked to consider the policy and approve the updated version which is attached at Appendix A.

4.0 EXPECTED BENEFITS TO THE PARTNERSHIP

4.1 This is the recommended policy of South Holland District Council although consideration has been given to the policy of Boston Borough Council and East Lindsey District Council within the South and East Lincolnshire Councils Partnership.

5.0 IMPLICATIONS

5.1 SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP

5.1.1 None

5.2 CORPORATE PRIORITIES

5.2.1 This policy supports the corporate priorities of promoting “your place” and protecting “your health and wellbeing”.

5.3 STAFFING

5.3.1 There are no staffing implications arising from this report.

5.4 CONSTITUTIONAL AND LEGAL IMPLICATIONS

5.4.1 The legal officer has been consulted in respect of this report.

5.5 DATA PROTECTION

5.5.1 None

5.6 FINANCIAL

5.6.1 None

5.7 RISK MANAGEMENT

5.7.1 None

5.8 STAKEHOLDER / CONSULTATION / TIMESCALES

5.8.1 Committee may consider carrying out public consultation however the changes to the policy are minor and it is therefore considered that consultation is not required.

5.9 REPUTATION

5.9.1 The Council should have an up-to-date policy to assist with the consideration of applications.

5.10 CONTRACTS

5.10.1 None

5.11 CRIME AND DISORDER

5.11.1 Crime and disorder is a consideration within the licensing policy and process as identified within this policy.

5.12 EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

5.12.1 Safeguarding is a consideration within the licensing policy and process as identified within this policy.

5.13 HEALTH AND WELL BEING

5.13.1 None

5.14 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

5.14.1 None

5.15 LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

MISSIONS	
This paper contributes to the follow Missions outlined in the Government's Levelling Up White paper.	
Pride in Place	By 2030, pride in place, such as people's satisfaction with their town centre and engagement in local culture and community, will have risen in every area of the UK, with the gap between the top performing and other areas closing.
Crime	By 2030, homicide, serious violence, and neighbourhood crime will have fallen, focused on the worst-affected areas.

6. ACRONYMS

6.1 None

APPENDICES	
Appendices are listed below and attached to the back of the report: -	
APPENDIX A	Sex Establishments Policy

BACKGROUND PAPERS
No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

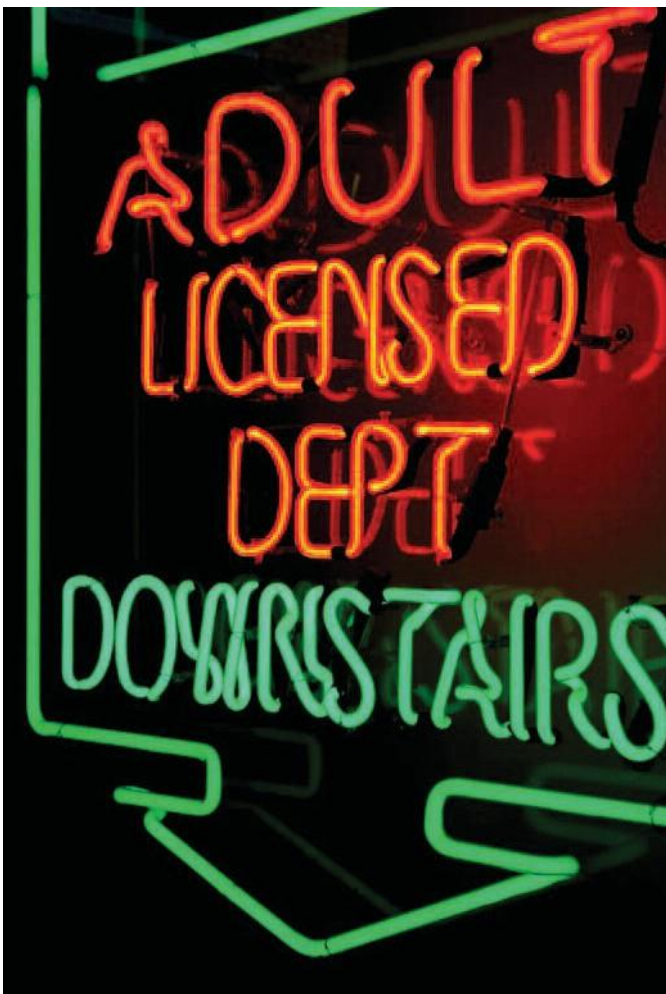
CHRONOLOGICAL HISTORY OF THIS REPORT
A report on this item has not been previously considered by a Council body.

REPORT APPROVAL	
Report author:	Donna Hall Donna.Hall@sholland.gov.uk
Signed off by:	Christian Allen, Assistant Director - Regulatory
Approved for publication:	Portfolio Holder for Public Protection

South Holland District Council

Policy Statement

Sex Establishments and Sexual Entertainment Venues



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1.0 Introduction

- 1.1** South Holland District is situated in the county of Lincolnshire, and has a population of 95,100. South Holland District covers a geographical area of 74,238 hectares and is situated in the South Eastern corner of Lincolnshire, also bordering the counties of Cambridgeshire and Norfolk. The District is mainly rural but comprises of a total of 47 towns and villages including the main town of Spalding.
- 1.2** South Holland District Council (SHDC) has recently joined Boston Borough Council and East Lindsey District Council to form the South and East Lincolnshire Councils Partnership.

2.0 Scope - Policy Aim

- 2.1** This document sets out South Holland District Council's policy (the "Policy".) in respect of the regulation of sex establishments and the procedure relating to applications for sex establishment licensing.

3.0 Legislation or Executive Summary

- 3.1** On 14 February 2011 South Holland District Council adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) so that it can licence "Sex Establishments".

4.0 Policy Consultation and Consideration

- 4.1** A twelve week consultation was conducted between the 17th December 2012 and ended on the 18th March 2013. The policy document was circulated widely to all stakeholders throughout the South Holland district. Below details who has been consulted on the draft policy.
- 4.2** The following people were consulted:
- The Chief Officer of Lincolnshire Constabulary;
 - One or more persons who appear to the Council to represent the interests of persons carrying on or proposing to carry on the business of a sex establishment in the district;
 - One or more persons who appear to the Council to represent the interests of persons to be employed either as performers or otherwise in the business of a sex establishment in district;
 - One or more persons who appear to the Council to represent the interests of persons likely to be affected by or otherwise have an interest in the policy, including the Planning Authority, Fire Authority, Environmental Protection and Child Protection;
 - Interested parties such as citizen advice and sexual health clinics
 - All licensed premises;
 - Ward Councillors;
 - Town and Parish Councils.
- The policy is also available on the Council's website.
- 4.3** No responses were received from consultees in respect of this policy document.
- 4.4** This policy was updated following consultation and approval by the Licensing Committee in November 2017.

5.0 Policy Statement

5.1 Sex Establishments fall into one of the following three categories:

- sex shops,
- sex cinemas
- sexual entertainment venues

In this policy, we refer to these as “sex establishments” unless otherwise stated.

5.2 The adoption of the Act enables the Council to control and regulate the operation of certain kinds of sex establishments within the district. A sex establishment cannot operate in the district unless it has been granted a licence.

5.3 At the time of publication, there are zero sex establishments within the District.

5.4 The Council does not take a moral stand in adopting this policy. It recognises that Parliament has made it lawful to operate a Sex Establishment and that such businesses are a legitimate part of the retail and leisure industry. It is the role of the Licensing Authority to administer the licensing regime in accordance with the law.

5.5 The Council is mindful of possible concerns the local community may have in relation to applications for Sex Establishments and this policy will guide the Council when considering applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and local communities. The Council will consider the individual circumstances of each application made under the 1982 Act. It may make exceptions to this policy where it is appropriate and gives reasons for doing this.

5.6 A twelve week consultation on the draft policy took place between 17th December 2012 and 18th March 2013. Following consultation, the policy was approved by Full Council on 19th June 2013.

5.7 The Council may review the Policy from time to time in light of developing practices, guidance and secondary legislation.

5.8 The Council shall have regard to all relevant considerations, including any representations received and comments made by:

- District Councillors
- Police
- Fire Service
- Planning Service, SHDC
- Communities Team, SHDC
- Environmental Protection Team, SHDC
- Food and Safety Team, SHDC
- Licensing Authority
- Children’s Safeguarding Unit, Lincs County Council
- Lincolnshire Trading Standards
- Interested Parties (local residents / businesses)
- Any representations made by the applicant

5.9 In developing this Policy, 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 and to particularly consider the impact of legislation on small businesses; and
- c) The Provision 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

6.0 Definitions

6.1 The Act:

This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.

6.2 The Policy:

This refers to the South Holland District Council Sex Establishment Policy.

6.3 Relevant locality:

This is the locality where premises are situated or where the vehicle, vessel or stall is going to be used as a sex establishment. The locality and the area that this covers is a matter for the local authority to decide at the time it considers the application for the grant, renewal or transfer of a sex establishment licence.

6.4 Character of the relevant locality:

The character or characteristics of the locality where the premises are situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Council to consider based on local knowledge, factors and circumstances.

6.5 The Council:

This means South Holland District Council.

6.6 The Organiser:

This is any person who is responsible for the organisation or management of:

- a) Operation of the relevant entertainment or
- b) The premises.

6.7 Permitted hours:

These are the hours of activity and operation that have been authorised under a sex establishment licence.

6.8 Sex Establishment:

Means a Sexual Entertainment Venue, Sex Cinema or a Sex Shop as appropriate.

6.9 Premises:

Include any vessel, vehicle or stall but do not include a private dwelling to which the public are not admitted.

6.10 Sex Article:

- a) anything made for use in connection with, or for the purpose of stimulating or encouraging:
 - i. sexual activity;
 - ii. acts of force or restraint which are associated with sexual activity, and
- b) 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
- c) 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.

6.11 Sex Cinema:

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 or 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 are not admitted.

6.12 Sex Shop:

Any premises, vehicle or 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 or force or restraint which are associated with sexual activity.

6.13 Significant Degree:

Licences for sex shops are required where there are 18R films being sold, or Where there is a "significant degree" of "sex articles".

6.14 The phrase "significant degree" is not defined in the Local Government (Miscellaneous Provisions) Act 1982.

6.15 When considering if a business is selling a significant degree of sex articles thus requiring a licence, the following criteria will be considered:

- the ratio of sex articles to other aspects of the business
- the absolute quantity of sales
- the character of the remainder of the business
- the nature of the displays in the business
- turnover; and
- other factors which appear to be materially relevant

6.16 Sexual Entertainment Venue:

Any premises at which Relevant Entertainment is provided before a live audience for the financial gain of the organiser or the entertainer (subject to the exceptions set out below).

6.17 Relevant Entertainment:

- a) any live performance: or
- b) or live display of Nudity, which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means). An audience can consist of just one person (e.g. where the entertainment takes place in private booths).

6.18 Nudity:

- 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.

6.19 In determining whether entertainment is “relevant entertainment” each case will be judged on its own merits, but will generally apply to:

- Lap dancing
- Pole dancing
- Peep shows
- Table dancing
- Strip shows
- Live sex shows
- Topless bars
- Premises where private entertainment booths as defined in 3.17 are present

The above list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, they should only be treated as indicative. Further information is available from the Licensing Team.

6.20 Sexual Entertainment Venues- Exceptions

Schedule 3, Paragraph 2A(3) of the 1982 Act defines those premises that are not Sexual Entertainment Venues. These are:

- a) Sex Shops and Sex Cinemas (which are separately defined in Schedule 3 to 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 occasions 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.
- iv. Other premises or types of performances or displays exempted by an order of the Secretary of State.

Premises which:

 - a) Provide Relevant Entertainment on an infrequent basis; or
 - b) Provide any form of adult entertainment which falls outside the definition of Relevant Entertainment will continue to be regulated under the Licensing Act 2003, insofar as they are providing regulated entertainment under that Act.
 - c) Premises holding a sexual entertainment venue licence will not require a premises licence under the 2003 Act unless the premises is carrying on other licensable activities e.g. the sale of alcohol or the provision of regulated entertainment.
 - d) Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the 2003 Act.

7.0 Determination of Applications

7.1 Each application will be determined on its own merits. Specific mandatory grounds for refusal of a licence are set out in the Act.

7.2 Mandatory grounds

A licence cannot be granted:

- a) to anyone under 18 years of age
- b) to someone who has held a licence that was revoked in the last 12 months (from the date of revocation)
- c) to someone who has been refused a new or renewal of licence within the last 12 months (from the date of making the application) unless the refusal has been reversed on appeal
- d) to an individual who is not resident in the United Kingdom or has not been resident for six months prior to the making of an application
- e) to a company not incorporated in an EEA state
- f) Under the 1982 Act the Council has the discretion to refuse application relating to sexual entertainment venues on the grounds that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reasons.

8.0 Relevant Locality

8.1 Applications may be refused on grounds relating to an assessment of the 'relevant locality' including the impact on the local amenity. A licence may be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind in the relevant locality, is equal to or exceeds the number that the Council considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put, or the layout, character or condition of the premises. Nil may be an appropriate number.

8.2 The figure of "nil" per ward may respond to these concerns and in addition to the above the following factors may justify this safeguarding regulatory step. Whilst this is not intended to be an exclusive list, consideration should be given to the following matters :

- Areas and premises attracting families such as leisure and sport facilities and play spaces, parks and open spaces
- Premises attracting young people such as schools, nurseries, children's centres and other educational establishments and access routes to and from those premises
- Places of worship, religious and communal buildings
- The proximity of residential accommodation, including sheltered housing and accommodation for vulnerable people
- Other retail units, such as shopping centres (and their uses)
- Alcohol or entertainment licensed premises
- Any planned or proposed regeneration of the area
- Any relevant planning considerations such as whether the premises are in a conservation area or areas designated as primary residential or prime retail frontage

- The nature and character of the area
- The nature of the clientele that sexual entertainment venues may attract and their behaviour outside the premises may also be inappropriate in the context of the character of the locality in which the premises are situated.

8.3 Having regard to each ward within the district and recognising of the mix of uses, rural location, the character, the strategic vision and the existing locations of particular types of premises in those areas, it may be inappropriate for sex establishments to be located in any ward within the district. The association that sex establishments have with a part of the “sex industry” and adult entertainment means that they may not be suitable for location in those parts of the district associated with family, retail and local businesses, nor may they be appropriate for location in residential areas or areas frequented by families and children. This applies equally to the town centre area of Spalding itself, but also to the villages within the District.

9.0 Character, layout and condition

9.1 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.

9.2 Whilst it is 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
- The days and hours of operation of the activity
- The layout and condition of the premises with particular concern for public safety, health and safety, the prevention of crime and disorder and prevention of public nuisance.

10.0 Suitability of the Applicant

10.1 The applicant must be a fit and proper person to hold a licence. In determining suitability the applicant will be required to demonstrate that he/she is suitable to hold a licence. The Council will 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 that applicants may have
- Any other relevant information

10.2 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 be in fact carried on for their benefit.

11.0 Making an Application

11.1 The relevant form together with supporting documentation as stated in the application form should be submitted to the Licensing Team at the Council Offices. An application form, including public notice is available from the Licensing Team or via the website at www.sholland.gov.uk

12.0 Representations on an Application

- 12.1** Any person wishing to object to an application must submit a written representation within the 28 day consultation, setting out the grounds of objection.
- 12.2** If an objection is received, the Licensing Authority will determine if an objection is relevant. The Council will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by Officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given a written reason.
- 12.3** Objections should be made in writing (unless submitted electronically) and indicate the name and addresses of the person or organisation making the representation and indicate the premises to which the objection relates. Additionally the person making the objection should clearly set out the reasons for making the objections and where possible provide evidence.
- 12.4** Where the Council receives objections it will give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the objector reveal their name or address to the applicant.
- 12.5** The Licensing Committee will determine all new applications for a sex establishment licence.

13.0 Renewal Applications

- 13.1** It should be noted that the Licensing Authority in applying its decision-making discretion may consider it appropriate to refuse the renewal of the licence even where there has been no change in the character of the relevant locality or in the use to which any premises in the locality are put.
- 13.2** If a renewal application is not opposed, it shall be approved under delegated authority to relevant officer(s). All contested applications for renewal, as described in the Act shall be referred to the licensing committee for decision.

14.0 Application Process

- 14.1** Applicants for a sex establishment licence must complete and return the application form, together with:
- Five sets of floor plans, drawn to scale and showing all means of entry and exit, any parts used in common with any other building and indication how the premises lie in relation to the street;
 - Five sets of plans showing the existence and front elevation of the premises depicting all signage;
 - Five sets of plans (scale 1:500) showing the sex establishment in relation to other premises within 100 metres;
 - Five sets of plans (scale 1:50) showing the layout of the sex establishment;
 - The correct fee as set out by the Council's Licensing Committee.
- 14.2** Notice of all applications shall be given to Lincolnshire Constabulary, Lincolnshire Fire and Rescue Services, Council Head of Service, Ward Councillors and any other relevant person as deemed appropriate by the Licensing Authority.

14.3 As part of the application process, applicants are required to post a white A3 notice at the proposed site for 21 days, from the date the application is lodged with the Licensing Authority, setting out the application details.

14.4 The notice must be posted in a prominent position on the premises for the whole of that time so that it can be easily read by passers-by.

14.5 Applicants must place a public notice in a local newspaper at their own expense. The newspaper notice should appear in the publication within 7 days of the application being lodged.

14.6 The applicant shall supply a copy of every advertisement published under paragraph 11.5 to the Local Authority.

14.7 The Licensing Authority will not determine an application for the grant of a licence unless the applicant allows any authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

14.8 To ensure that technical standards are met, responsible authority authorised officers may choose to inspect the premises, this includes Council licensing officers and environmental protection officers, Lincolnshire Constabulary and Lincolnshire Fire and Rescue Services.

14.9 If work is required to the premises to bring it to an acceptable standard, the applicant will be notified in writing. No licence will be granted until all required works are satisfactorily completed.

14.10 Applicants are advised that any person who, in connection with an application for the grant, renewal or transfer of a licence, makes a statement which he/she knows to be false in any material respect, or which he/she does not believe to be true, is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.

14.11 Any licence approved does not constitute any approval under any other Acts, e.g. the Town and Country Planning Act 1990 or by-laws. The applicant must ensure that all other necessary consents and approvals are obtained prior to operation.

15.0 Renewal of Licence

15.1 To continue operating as a sex establishment, licence holders must make a renewal application prior to the expiry of the existing licence.

15.2 The Licensing Authority will not determine an application for renewal of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

16.0 Variation of Licence

- 16.1** Applications for variations of licences are subject to the site and newspaper notice requirements set out by statute.
- 16.2** Variation applications relate only to proposed changes to such matters as the hours and area of the premises covered by the licence. Any changes to the licensee must be the subject of a transfer application.
- 16.3** All variation applications for sex establishment licences must be referred to the Council's Licensing committee for decision. Applicants must not operate any revised or varied arrangements until such an application has been approved and any revised or varied licence has been issued.

17.0 Transfer of Licence

- 17.1** The Licensing Authority will not determine an application for the transfer of a licence unless the applicant allows authorised officers a reasonable opportunity to enter the proposed sex establishment to make such examinations and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

18.0 Duration of Licence

- 18.1** Sex Establishment Licences will normally expire on an annual basis, but can be issued for a shorter term if deemed appropriate.

19.0 Hearings

- 19.1** The Council will give all new applications relating to sex establishments the opportunity of appearing before a Licensing Committee. It will be the general practice of the Council to invite the Police and/or others who have lodged objections to appear and be heard at any hearings in addition to the applicant.
- 19.2** Where the Council is required to determine an application by reference to the Licensing Committee, the applicant, Police and objectors (if applicable) will be advised of the date, time and venue of the hearing.
- 19.3** Prior to the hearing all parties will receive a copy of the Agenda and Report. This will include the application (or summary), objections and any other relevant information.
- 19.4** Additional material in support of the application or representation may be taken into account at the hearing, however this must be provided to the Council as soon as possible and at least 5 working days before the hearing. Any material submitted after this time or at the hearing will only be admitted at the discretion of the Committee. This will only be allowed in exceptional circumstances and if the material does not prejudice any other party.
- 19.5** The decision will be made by the Licensing Committee at the end of the hearing giving reasons and a decision notice will be sent to all parties.

20.0 Appeals

20.1 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. However, not all decisions carry a right of appeal.

20.2 The only persons entitled to appeal are:

- i) an applicant for the grant, renewal or transfer of a licence whose application has been refused; or
- ii) an applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application for variation is refused; or
- iii) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
- iv) a holder of any such licence whose licence is revoked.

However, even these persons do not have a right of appeal in every case.

20.3 There is no right of appeal for the following:

- 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 grounds 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 for such persons is by way of Judicial Review.

20.4 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 is appealing. A fee will be payable and the relevant Court will advise as to the amount.

21.0 Enforcement

21.1 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.

21.2 Inspections will not be undertaken routinely, enforcement of the legislation will be objective and transparent.

22.0 Implementation

22.1 The policy will be implemented after it is approved at the Licensing Committee and Full Council. The policy will be communicated via the Council's website and will be made available on request.

23.0 Management Control and Organisation

23.1 Management of the policy is to be completed by the Licensing and Business Support Manager.

24.0 Monitoring

24.1 Monitoring is to be completed by the Licensing and Business Support Manager. The policy will be reviewed every three years or earlier if needed, for example changes in legislation.

25.0 Related Policies and Strategies

25.1 None

26.0 Appendices

APPENDIX 1-

Standard Conditions for Sex Shops

APPENDIX 2-

Standard Conditions for
Sexual Entertainment Venues

APPENDIX I: STANDARD CONDITIONS FOR SEX SHOPS

Management of the Premises

1. The Licensee or some responsible person nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
2. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council
3. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council or the local trading standards authority.
4. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he/she is responsible for the conduct of the Premises.
5. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee’s control of the Premises.
6. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed.

7. No person under the age of 18 shall be admitted to the Premises and a notice to this effect, in accordance with condition 17, shall be displayed on the outside of the Premises.
8. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the Premises.
9. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee’s absence and the names and addresses of those employed in the Sex Establishment. The Register shall be completed each day the Sex Establishment is open for business and shall be available for inspection by the police and by authorised officers of the Council.

Opening of the Premises

10. The Premises shall not, without the written consent of the Council, be opened and used for the purpose for which the licence is granted except during the following hours:
 - Monday - Saturday 9am - 6pm
 - Sunday 11am - 4pm
11. The Premises shall not, with out the written consent of the Council, be opened and used for the purpose for which the licence is granted on Christmas Day or Good Friday.

Conduct of the Premises

12. No change from a sex cinema to a sex shop to a sex cinema shall be made without the written consent of the Council.
13. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in sex cinema.
14. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.

15. No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

External Appearance

16. The holder of a sex establishment licence may exhibit on the outside of the Premises the name of the business and a notice, capable of being enclosed by a rectangle one metre in area or such other size as agreed with the Council, consisting of the words "Licensed Adult Establishment".
17. The holder of a sex establishment licence shall exhibit on the outside of the Premises a notice, capable of being enclosed by a rectangle one square metre in area, of the times of opening and of the words "No person under the age of 18 allowed.
18. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 16 and 17 or otherwise approved by the Council in writing:
- (b) No external loudspeakers may be installed.
22. The windows and openings of the Premises shall be covered with a material, which will render the interior of the Premises invisible to passers-by.

State, Condition and Layout of the Premises

23. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.

24. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
25. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the Premises shall be visible when persons are entering or leaving the Premises.
26. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
27. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
28. Alterations or additions, either internal or external, shall be not made to the Premises without prior written consent from the Council.
29. Any facilities for previewing films, video recording or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
30. 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 such booth or cubicle at any time.

Safety and Security

31. The Licensee shall take all reasonable precautions for the safety of the public and employees.
32. The Licensee shall institute steps to check the age of customers to ensure no one under the age of 18 enter the premises.
33. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council

Goods Available in Sex Establishments

34. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a Sex Establishment shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
35. All printed matter, films and videos offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
36. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations from time to time and in particular any such material related to AIDS. Free literature relating to the prevention of sexually transmitted diseases shall be available to each customer after purchase of Sex Article. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

APPENDIX II:

STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

1. The Licensee shall remain in personal control of the Premises at all times or nominate an individual in writing over the age of 18 with the authority to direct activities within the Premises.
2. Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) shall be licensed by the Security Industry Authority.
3. The Licensee shall ensure that a suitable number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") whilst performances are being given under this licence.
4. No children under the age of 18 shall be admitted to the Premises. Customers who appear to be under the age of 25 must be asked to provide photographic proof of their age. The Licensee must provide prominent notices at each entrance to the Premises to this effect.
5. The only ID that will be accepted is passports, a driving licence with a photograph, or Portman Group proof of age cards bearing the 'PASS' mark hologram. The above list of acceptable proof of age items may be extended to other forms of ID in the future with advance written agreement of the Police without the need to review the actual licence.
6. Performers shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity check
7.
 - a) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment on the Premises in any unlawful manner.
 - b) Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to the public feeling, that advertisement shall not be displayed.
 - c) The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggests that striptease or similar entertainment takes place on the Premises and which may be offensive.
 - d) The Licensee shall ensure to the Council's satisfaction (including, where required, necessary planning or building control consents) that the interior of the Premises is not visible from the outside of the Premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from outside of the Premises.
8. The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst sexual entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
9. Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.
10. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
11. Performers shall remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.
12. Performers must dress fully at the end of each performance.

13. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
14. Performers must never be alone in the company of a Customer except in an area open to the public within the Premises.
15. The Licensee is to ensure a sufficient number of staff are employed inside the Premises whilst sexual entertainment is provided to supervise the Performers and Customers.
16. Performers must not perform a nude table dance unless in a supervised area of within five metres of a floor supervisor.
17. The Licensee must ensure that during the performance of a table dance:
 - (1) customers must be seated in an upright position before a dancer can start a table dance;
 - (2) customers must remain seated during the entire performance of the dance;
 - (3) for the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - (4) Performers must not sit or straddle the customer
 - (5) Performers must not place their feet on the seats
18. The Licensee must ensure that during a performance to which this Licence relates:
 - (1) Performers may not perform any act that clearly simulated any sexual act;
 - (2) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (3) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (4) Performers must never intentionally touch the genitals or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals or breasts;
 - (5) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (6) Performers only perform nude or semi-nude dancing (of any description) with areas specified by the Council.
19. The Licensee must ensure that during performances to which this Licence relates:
 - (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
 - (2) Customers must remain appropriately clothed at all times.
20. The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of Lincolnshire Police, and that any images are
 - (a) retained for a period of at least 31 days and
 - (b) made available on request to a police officer or authorised officer of the Council.
21. The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.
22. The Licensee shall ensure that prior to any performance, all performers are fully aware of the condition on the licence.

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