



Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF.
Tel. No: 01268 882200
Fax No: 01268 882455



David Marchant LLB (Hons) BSc (Hons) CEng FICE FCMI
Chief Executive

AGENDA

Committee: LICENSING

Date and Time: Wednesday, 11th September 2013 at 7.30 p.m.

Venue: Council Chamber

Membership: Councillors E.Egan (Chairman), Ms Barton, Brunt, Burch, Cross, Mrs Freeman, Greig, Hart, Mrs Iles, Mrs Liddiard, May, Stanley, Mrs G. Watson, N. Watson and Mrs Wass

**Officers attending: Chris Jacob – Head of Licensing & Transportation
Amit Bansal – Trainee Solicitor
Ann Horgan – Head of Governance**

Enquiries: Cheryl Salmon, Ext. 2454

PART I

(Business to be taken in public)

1. Apologies

2. Members' Interests

3. Minutes

A copy of the Minutes of the meeting held on 12th September 2012 is attached.

4. Scrap Metal Dealers Act 2013

A report is attached.

5. Sexual Entertainment Venue Policy

A report is attached.

Agendas and Minutes can be viewed at www.castlepoint.gov.uk

Copies are available in larger print & audio format upon request

If you would like a copy of this agenda in another language or alternative format:
Phone: 0800 917 6564 or email translations@languageline.co.uk



LICENSING COMMITTEE

12th NOVEMBER 2012

PRESENT: Councillors Brunt (Chairman), E. Egan, Mrs Freeman, Mrs Goodwin, Greig, Mrs Iles, May, Stanley and N. Watson.

Apologies for absence were received from Councillors Ms Barton, Cross, Hart, Mrs Liddiard, Mrs G. Watson and Mrs Wass.

5. MEMBERS' INTERESTS

Councillor N. Watson declared an interest under the Council's Code of Conduct in respect of Agenda Item No. 5 as shown under Minute No. 8.

6. MINUTES

The Minutes of the meeting held on 6th September 2012 were taken as read and signed as correct.

7. TRADING STANDARDS

Liz Webb, Trading Standards Officer at Essex County Council, gave the Committee an update of work currently being undertaken by Trading Standards which linked to the licensing objectives. This included, the prevention of underage sales of alcohol, the prevention of the sale of illicit alcohol and partnership working with Essex Police and HM Revenue and Customs.

The Chairman thanked Ms Webb for an informative presentation.

8. MODIFICATION TO PRE-LICENSING STANDARDS AND CONDITIONS ATTACHED TO THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

(Councillor N. Watson declared a personal interest in the above item by reason of his involvement in the London Hackney Carriage trade. He remained in the Chamber during its discussion and took part in the debate.)

The Committee gave consideration to the modification of several of the Pre-Licensing Standards and Conditions attached to the Hackney Carriage and Private Hire Licensing Policy.

The Committee was reminded that at the Licensing Committee meeting held on 1st March 2012 it had been agreed that modifications in relation to the driving assessments by the Driving Standard Agency (DSA) be amended to require annual assessments from the age of 66 years. At the Licensing Committee meeting on 6th September 2012 the Castle Point Licensed Drivers' Association had requested that the Committee review and revoke this requirement. After a general discussion this had not been agreed.

The Head of Licensing and Transportation reported that since the Licensing Committee had introduced the driving assessment requirement with the DSA several drivers from Castle Point who had been reassessed had not passed.

The DSA had confirmed that they conducted driving assessments for approximately 150 Licensing Authorities across the United Kingdom and that most authorities used the assessments for all or a combination of the following three purposes:

- As a condition of consideration of an application;
- At relicensing stage; or
- Driver subject to complaints or with suspected shortcomings

It was reported that the House of Commons Transport Select Committee on taxis and private hire vehicles had recommended in February 1995 that taxi licence applicants should pass a medical examination before such licence could be granted. Responsibility for determining the standards, including medical requirements to be applied to taxi drivers over and above the driving licensing requirements, rested with the local authority. Current best practice recommended that the Group 2 medical standards applied by Driver and Vehicle Licensing Agency (DVLA) in relation to bus and lorry drivers should also be applied by local authorities to taxi drivers.

In May 2012 the DVLA had issued guidance on the current medical standards of fitness to drive, details of the guidance given in relation to age limit were set out in the report.

It was therefore suggested that changes be made to the current conditions as follows:

That paragraphs 16.2 and 16.3 be replaced as follows:

- 16.2 A driver shall submit themselves for a medical examination by the applicant's own General Practitioner of Group 2 standard on first application and thereafter every five years (as set by the Council) until the age of 65 years when a medical will be required every year within 21 days prior to your birthday. This will be at the applicant's own expense.
- 16.3 A driver shall be the holder of a DSA pass certificate for hackney carriage and private hire assessment or a holder of an advanced driving certificate from an officially recognised body on first application

and thereafter every three years after the age of 65 years. This will be at the applicant's own expense.

The Legal Officer reported that the authority was allowed to add such conditions to the grant of a licence it deemed reasonably necessary. Public safety was paramount and, in light of the rising age of the population, it was important to consider whether the current age limit was appropriate. Statistical evidence had shown that elderly drivers (65 and above) per mile driven were more likely to have a serious accident. Drivers had consistently failed tests, with one driver who was 77 years of age failing on three occasions. This was a concern to the local authority as its primary concern was public safety.

Furthermore, the Council's condition would not fall foul of section 13(2) of the Equality Act 2010 as the Council legitimately sought to achieve a consistent and transparent method of ensuring drivers over the age of 65 met the required standard as recommended by the DSA to continue driving vehicles carrying passengers.

During discussion some Members expressed the view that the requirement that drivers hold a DSA pass certificate from the age of 65 years was not necessary. It was questioned whether the statistical information provided was correct and that a driver over the age of 65 was more prone to accidents than a younger driver.

However, the majority of Members felt that the age limit was appropriate. Members were mindful of the authority's responsibility for public safety, that generally performance deteriorated with age and that there was currently no test in place to assess a driver's ability from when their licence was first received until they decided to retire.

Following detailed discussion it was:-

Resolved – That the Committee agree the proposed changes to the new Hackney Carriage Vehicle Private Hire Pre-Licensing Standards and Conditions of Licence and Combined Hackney Carriage/Private Hire Drivers Pre-Licensing Standards and Conditions of Licence within the Licensing Policy, as set out in Appendix 1 of this report.

(Councillors Greig, May and N. Watson requested that their vote be recorded against the above decision).

9. REVIEW OF THE LICENSING ACT 2003 POLICY DOCUMENT

The Police Reform and Social Responsibility Act 2011 and The Live Music Act 2012 had made a number of amendments to the Licensing Act 2003 and the Home Office had issued revised guidance under section 182 of the Licensing Act 2003. As a result of this the Council's Statement of Licensing Policy no longer reflected the legislation or guidance in all respects.

The current Statement of Licensing Policy had come into effect in January 2011. There was a statutory requirement under the Licensing Act 2003 to monitor, review and where appropriate, amend its Statement of Licensing Policy. To enable a revised policy to be drafted, consulted on, agreed and published, a full consultation had to be taken. A copy of the proposed revised policy was attached as Appendix A to the report. It was stated that until a new policy had been adopted, where there was conflict between the legislation or Home Office Guidance and the Statement of Licensing Policy, the legislation or Home Office Guidance would prevail.

Details of the main changes to the legislation were set out in detail in the report.

Following discussion it was:-

Resolved - That the revised Licensing Policy for consultation be agreed.

Chairman

LICENSING COMMITTEE

11th September 2013

Subject: Scrap Metal Dealers Act 2013

1. Purpose of Report

The purpose of this report is to inform Members of impending changes to the regulatory regime for controlling scrap metal dealing to be implemented through provisions of the Scrap Metal Dealers Act 2013, and the increased duties and powers which this gives to the Council.

2. Background

- 2.1 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and is due to come into force in October this year. The new Act will replace the Scrap Metal Dealers Act 1964 and the part of the Vehicle (Crime) Act 2001 that deals with motor salvage operators. The Act revises the regulatory regime for scrap metal dealing and vehicle dismantling. Local authorities will continue to act as the main regulator but the new system gives the Council more powers, including the power to refuse an application for a licence and also to revoke licences if the dealer is considered unsuitable. Both the local authority and the police have been given powers to enter and inspect premises.
- 2.2 The changes in the legislation have been prompted as a result of the impact of metal theft. This has become an increasing problem as the value of metal across the UK as a whole has risen. A wide range of bodies in both the public and private sectors are commonly affected by this criminal activity. Targets include transport, electricity and telephone links, street furniture, memorials; affecting both commercial and residential buildings, including churches and schools. For instance, within the Castle Point Borough incidences of the theft of drain coverings have been reported.
- 2.3 In 2012, the Government brought in some initial restrictions through the introduction of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and these were as follows:
- to prohibit cash payments for scrap metal;
 - to amend police powers of entry into unregistered scrap metal sites; and
 - to increase the existing financial penalties for offences under the Scrap Metal Dealers Act 1964.

- 2.4 At present, there are 8 registered Motor Salvage Operators and 9 licensed Scrap Metal Dealers within the Castle Point Borough.
- 2.5 The aim of the legislation is to revise the regulatory regime for scrap metal dealing and vehicle dismantling and to give the police and local authorities more powers to refuse and revoke licences as well as greater rights of entry and inspection.
- 2.6 The Act brings in two types of licences: a 'site licence' and a 'collectors licence'. A person can only hold one licence in a local authority's area but can hold a licence in more than one local authority.
- 2.7 An applicant for a licence must be suitable and in making this decision the local authority can have regard to:
- Whether the applicant or any site manager has been convicted of any relevant offence;
 - Whether the applicant or any site manager has been the subject of any relevant enforcement action;
 - Any previous refusal to issue or renew a scrap metal licence;
 - Any previous refusal for an environment permit or registration;
 - Any previous revocation of a scrap metal licence; and
 - Whether the applicant has demonstrated that there will be adequate procedures to comply with the Act.

All of the above will apply to any director, any secretary of a company or any shadow director of the company if the applicant is not an individual.

- 2.8 Once an application has been received, the local authority must consult with:
- Any other local authority (if an application has been made or licence issued to the same applicant);
 - The Environment Agency; and
 - The Police.
- 2.9 The Act has also introduced the requirement for the Environment Agency to keep and maintain a register of scrap metal licences issued in England, which will be open for public inspection.
- 2.10 The Act will introduce the requirement for scrap metal dealers to verify the identity and full name and address of the metal supplier and keep copies of proof of identification. In addition, the dealer must keep records of the type of description of the metal(s) acquired, including weight and identifying marks, the date and time of receipt, the vehicle registration of any vehicle delivering the metal and copies of cheques used to pay for metal. All records must be kept for 3 years. The Act also prohibits the payment of cash for metals.
- 2.11 Local authority and Police officers have been given the powers to inspect licensed premises and can require production of any scrap metal at the premises, inspect records kept and take copies of those records. The Act

provides police and local authority powers to issue closure notices to unlicensed scrap metal dealing premises and apply to a Justice of the Peace for a closure order.

- 2.12 The current legislation for scrap metal dealers only requires basic information to be supplied and no fee is payable. The new Act will require more detailed information to be submitted upon application and will allow the local authority to set a fee. The fee must be fixed to allow cost recovery and local authorities must have regard to guidance issued by the Secretary of State.

3. Present Position

- 3.1 At present the Licensing Department licence Motor Salvage Operators with a fee of £70 for a three year licence. Environmental Health licence Scrap Metal dealers with a one off fee of £93.

4. Proposals

- 4.1 In preparation for the implementation of these new powers and duties, the Council will need to make arrangements for dealing with applications; set a policy add a fee; authorise officers to exercise the new powers, and assign resources to ensure compliance.
- 4.2 A consultation exercise on the proposed policy will take place with existing local scrap metal dealers and motor salvage operators; Essex Police; British Transport Police; Environment Agency and Industry Associations. This will also serve to make these parties aware of the commencement of the new system.
- 4.3 Licensing Officers, have participated in a small working group of the Essex Licensing Officers Forum to draft a Statement of Licensing Policy, which can be adopted as a model of best practice across the county. A copy of the proposed policy is attached as Appendix 1. This document sets out how applications will be dealt with during the transitional period and for new applicants. it should be noted that amendments to the policy document will be required when the precise content of regulations and Home Office guidance become known. This includes advice on how local authorities are to manage the transition arrangements.
- 4.4 Fees are to be set locally by each authority on a cost recovery basis, but local authorities will have a duty to have regard to guidance issued by Secretary of State. This will outline the issues that should be considered by them when setting the fee and what activities the fee can cover. This fee is an essential component of the new regime as it will provide local authorities with the funding they need to administer the regime and to ensure compliance.
- 4.5 Draft proposals for fees have been prepared having regard to guidance:
- New Site Licence £270
 - Renewal of Site licence £180
 - Mobile(Collectors) Licence £200

- Renewal of Mobile Licence £170

4.6 It is anticipated that procedures adopted under this new regime will mirror that of other licensing regimes. Where applications are received that fall within the policy criteria, Officers will have delegated authority to issue a licence. Applications that do not meet the policy criteria, or are contested, will be determined by the Licensing Sub-Committee.

5. Corporate Implications

(a) Financial Implications

5.1 The new legislation will require the Council to receive and consider applications, to draft and set a policy, to set appropriate fees and to monitor and review these arrangements. The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity must be funded through existing funds. Such activity against unlicensed operators includes issuing closure notices; with applications for closure orders subsequently made to a magistrates court. The cost of applying to the Magistrates Court for a warrant (Section 16(5)(6) of the 2013 Act) for entry to unlicensed premises, by force if necessary, will incur legal costs to be borne by the local authority and police.

(b) Legal Implications

5.2 The Scrap Metal Dealers Act 2013 requires that a policy is adopted, monitored and reviewed and that applications for licences are dealt with.

(c) Human Resources and Equality Implications

Human Resources

5.3 The new Act will involve additional work and the Licensing Department will monitor closely the impact of the Government legislation.

Equality Implications

5.4 Legislation requires the Council to consider how the decisions it makes and service it delivers affects people who share different “protected characteristics”. The Council must have “due regard” for the need to eliminate unlawful discrimination, harassment, victimisation to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics includes age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The policy and procedures proposed are in accordance with the legislation for local government.

5.5 An Equality Impact Assessment has been carried out and the impact of the proposal is neutral.

(d) IT and Asset Management Implications

5.6 There are no IT or Asset Management implications

6. Links to Council's Priorities and Objectives

6.1 This report is clearly linked to the Council's Community Safety priority

7. Timescale for Implementation and Risk Factors

7.1 If a scrap metal dealer who was previously registered fails to submit an application for a licence on or before 15th October 2013, his deemed licence will lapse on 16th October 2013. The lapsing of the deemed licence on 16th October 2013 shall not be treated as a revocation of the deemed licence.

8. Conclusion

The Act maintains local authorities as the principle regulator. It also gives them better powers to regulate these industries by allowing them to refuse to grant a licence to "unsuitable" applicants and a power to revoke licences if the dealer becomes "unsuitable".

Recommendations

1. The Committee is asked to consider the report and :-
 - 1) To approve the Draft Scrap Metal Dealers Act 2013 Statement of Licensing Policy at Appendix 1 for consultation.
 - 2) Note and approve the proposed licence fees.
 - 3) To recommend to that the Scheme of Delegated Powers be amended to permit the Head of Regeneration and Neighbourhoods in conjunction with the Head of Licensing and Transportation to process applications under the Scrap Metal Dealers Act, 2013 except where there are unresolved objections, which will be referred to a Licensing Sub Committee.

Resolution Required

Background Papers

LGA Guide to the Scrap Metal Dealers Act 2013

Guidance on Fees and Assessments

Report Author: Chris Jacob Head of Licensing & Transportation

CASTLE POINT BOROUGH COUNCIL

SCRAP METAL DEALERS ACT 2013

STATEMENT OF LICENSING POLICY

DRAFT

CONTENTS

Page No.

1. Introduction
2. Consultation
3. Types of Licences
4. Transitional Process
5. Application Process
6. Suitability of Applicants
7. Determination of Applications/Issue of Licence
8. Variation of Licence
9. Revocation of Licence by Miscellaneous Licensing Sub-Committee
10. Register of Licences
11. Notification Requirements
12. Display of Licence
13. Verification of Supplier's Identity
14. Payment for Scrap Metal
15. Records: Receipt of Metal
16. Records: Disposal of Metal
17. Records: Supplementary
18. Fees
19. Compliance
20. Closure of Unlicensed Sites
21. Delegation of Authority

APPENDICIES

Appendix 1 Transitional Process

Appendix 2 Application Process

Appendix 3 Relevant Offences & Penalties

Appendix 4 Compliance

Appendix 5 Appeals

Appendix 6 Delegation of Powers

Appendix 7 Fees

DRAFT

1. Introduction

- 1.1 This document states [Castle Point Borough Council] Policy on the regulation of Scrap Metal Dealers.

The Law

- 1.2 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and will come into force on 1 October 2013.
- 1.3 The Scrap Metal Dealers Act 2013, hereinafter named 'the Act' repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicle (Crime) Act 2001, Paragraph 1 of schedule 3 of the Vehicle Excise and Registration Act 1994, Paragraph 168 of schedule 17 to the Communications Act 2003 and section 145 to 147 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Act brings forward a new regime for scrap metal dealing and vehicle dismantling industries.
- 1.4 The Act maintains local authorities as the principle regulator. It also gives them better powers to regulate these industries by allowing them to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 1.5 [Castle Point Borough Council] hereinafter called 'the Council' is the Licensing Authority under the Scrap Metal Dealers Act 2013 and is responsible for granting site licence and collector's licences in the Borough of Castle Point in respect of businesses that deal in scrap metal and vehicle dismantling.
- 1.6 When assessing applications, the Council must be satisfied that the applicant is a 'suitable' person to hold a licence. Unsuitability will be based on a number of factors including any relevant criminal convictions.
- 1.7 The Scrap Metal Dealers Act 2013 makes it a requirement for a scrap metal dealer to have a licence in order to carry on in business as a dealer. It is an offence to carry on a business without first obtaining a licence. The Act incorporates the separate regulatory scheme for motor salvage operators under the Vehicle (Crime) Act 2001 into this new regime. This is to replace the current overlapping regimes for vehicle salvage and scrap metal industries with a single regulatory scheme.

Definition of a Scrap Metal Dealer

- 1.8 A person carries on business as a scrap metal dealer if:
- a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought in) or;

- b) they carry on business as a motor salvage operator (see 1.10).
- 1.9 A person selling scrap metal as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.
- 1.10 Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:
- a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap;
 - b) buying written-off vehicles, repairing and reselling them;
 - c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b);
 - d) wholly or mainly in activities falling within paragraphs (b) and (c).
- 1.11 Scrap metal includes:
- a) any old, waste or discarded metal or metallic material, and
 - b) any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.
- 1.12 Scrap Metal does not include:
- a) Gold;
 - b) Silver; or
 - c) Any alloy of which 2% or more by weight is attributable to gold or silver.

2. Consultation

- 2.1 There is no requirement, in the Act, for a Council to have in place a formal policy for dealing with applications made under the Scrap Metal Dealers Act 2013. As a process of 'Best Practice' [Castle Point Council] has chosen to adopt a formal policy for this purpose.
- 2.2 In developing this policy statement, the Council will consult with existing scrap metal dealers/motor salvage operators, Essex Police, British Transport Police, Environment Agency and Industry Associations.

3. Types of Licences

- 3.1 Anyone wishing to operate a business will require a site licence or a collector's licence. The licence is valid for three years and permits the holder to operate within the boundaries of the issuing authority. These are:
- **Site Licence** – A licence will be issued by the Council in whose area a scrap metal site is situated. A site licence will require all of

the sites at which the licensee carries on the business as a scrap metal dealer, within the local authority area, to be identified and a site manager to be named for each site. This will permit them to operate from those sites including transporting scrap metal to and from those sites from any local authority area.

- **Collectors Licence** – authorises a licence holder to operate as a 'mobile collector' in the area of the issuing local authority area. This permits them to collect any scrap metal as appropriate, including commercial and domestic scrap metal. It does not permit the collector to collect from any other local authority area; separate licences should be obtained from each local authority. Also, the licence does not permit a licensee to carry on a business at a site within any area. If a collector wishes to use a fixed site, they will need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their material.

- 3.2 A person may hold more than one licence issued by different authorities, but may NOT hold more than one licence issued by any one local authority.

4. Transitional Process 'Grandfather Rights'

- 4.1 During the transitional period, there will be special arrangements in place, (Guidance to be issued by Secretary of State). The procedure for conversion is detailed in Appendix 1.

DETAILED GUIDANCE AND STATUTORY INSTRUMENTS ARE AWAITED,

- 4.2 It is expected that currently registered scrap metal dealers will be able to apply for a licence from 1 August 2013 in order to be automatically issued with a temporary licence, pending completion of the suitability assessment carried out by the Council.
- 4.3 A temporary licence will be issued for a period of 2 months (1 September 2013 to 1 November 2013) when it is expected that the Council would be in a position to complete the licensing process and issue/refuse to grant a licence under the Scrap Metal Dealers Act 2013.
- 4.4 If an application is made within the transitional period and the Council fails to determine the application by 1 November 2013, the Council will then be unable to make a closure order against a temporary licensed site. Prosecution will also not be possible, unless there is a subsequent refusal.
- 4.5 Applications made after 31 August 2013 will be subject to the full licensing process.

- 4.6 Any dealer operating after 1 November 2013 without a licence will be in breach of the Scrap Metal Dealers Act 2013 and may risk being issued with a closure order.
- 4.7 Continuing to operate, in breach of a closure order, may result in an unlimited fine.

5. Application Process

- 5.1 When the Council is considering an application, it will have regard to:
- The Scrap Metal Dealers Act 2013;
 - Guidance issued by the Secretary of State;
 - Any supporting regulations
 - This statement of licensing policy.
- 5.2 This does not undermine the rights of any person to apply under the 2013 Act for a licence and have the application considered on its individual merits.
- 5.3 A person carrying on, or proposing to carry on, a business as a scrap metal dealer may apply to the Council to be licensed. The application must be in writing and contain the appropriate mandatory particulars, as set out in Appendix 2.
- 5.4 A local authority may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant. The additional information that is required is set out in Appendix 2.
- 5.5 The application must be accompanied by the appropriate fee.
- 5.6 If the applicant fails to provide the information requested, including the additional supporting documentation, the Council may decline to accept the application as a valid application.

6. Suitability of Applicants

- 6.1 A local authority must determine whether the applicant is a suitable person to carry on a business as a Scrap Metal Dealer.
- 6.2 In determining this, the Council may have regard to any information it considers to be relevant, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. A list of relevant offences are set out in Appendix 3.
- 6.3 The Council must also have regard to any guidance on determining suitability which is issued by the Secretary of State.

6.4 The Council may consult other agencies regarding the suitability of a applicant, including:

- Any other local authority;
- The Environment Agency;
- The Natural Resources Body for Wales; and
- An officer of a police force.

7. Determination of Application/Issue of Licence

7.1 Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence.

7.2 The Council may include, in the licence, one or both of the following conditions:.

- To limit the dealer to receiving any metal within the hours of 9.00am to 5.00pm; and
- That any scrap metal must be kept in the form in which it is received for a specified period of time, not exceeding 72 hours.

7.3 Where the Council is not satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, or a licence holder is no longer considered 'suitable' to continue to hold a licence, the Council must consider refusing the application or revoking the licence where a licence has been issued. The matter will be referred to the Licensing Sub-Committee for determination.

Right to Make Representations

7.4 If [Castle Point Council] proposes to refuse an application or to revoke/vary a licence a notice must be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for this. The notice must also state that within the period specified the applicant/licensee can either:

- a) make representations about the proposal; or
- b) inform the authority that the applicant/licensee wishes to do so.

7.5 The period specified in the notice must be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify [Castle Point Council] that they do not wish to make representations. Should this period expire the applicant/licensee has not made representations, or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.

7.6 If, within the period specified, the applicant/licensee informs the authority that they wish to make representations, the authority must allow a reasonable period to make representations and may refuse the

application or revoke or vary the licence if they fail to make representations within that period.

- 7.7 If the applicant/licensee notifies the authority that they wish to make oral representations, the authority must give them the opportunity of appearing before, and being heard by, a person appointed by the authority. In this instance, this will be before the Licensing Sub-Committee.
- 7.8 The Council may revoke a scrap metal dealer's licence in certain circumstances. Please refer to Section 9 for circumstance of revocation.

Notice of Decisions

- 7.9 If the application is refused, or the licence is revoked or varied, [Castle Point Council] must give a notice to the applicant/licensee setting out the decision and the reasons for it. The notice must also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought and, if revoked or varied, the date on which the revocation or variation is to take effect. (Please see Appendix 5 for appeal process).

8. Variation of Licence

- 8.1 An applicant can, on application, apply to the Council to vary a licence a licence by changing it from one type to another. The variation application must be made to reflect changes to:
- Site licence – name of licensee, the sites, site manager
 - Collector's licence – name of licensee

The variation can amend the name of the licensee but not transfer the licence to another person.

- 8.2 Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

9. Revocation of Licence by the Licensing Sub-Committee

- 9.1 The authority may revoke a scrap metal licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.
- 9.2 The authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.

- 9.3 The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer.
- 9.4 A revocation or variation under this section comes into effect when no appeal under section 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 9.5 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:
- a) that, until a revocation under this section comes into effect, the licence is subject to one or both of the conditions set out in section 7.2; or
 - b) that a variation under this section comes into effect immediately.

10. Register of Licences

- 10.1 The Environment Agency must maintain a register of scrap metal licences issued by authorities in England.
- 10.2 Each entry must record:
- a) the name of the authority which issued the licence;
 - b) the name of the licensee;
 - c) any trading name of the licensee;
 - d) the address of the site identified in the licence;
 - e) the type of licence; and
 - f) the date on which the licence is due to expire.
- 10.3 The registers are to be open for inspection to the public.

11. Notification Requirements

- 11.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.
- 11.2 A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days.
- 11.3 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.
- 11.4 An authority must notify the Environment Agency, of –
- a) any notification given to the authority under section 11.2 or 11.3;

- b) any variation made by the authority under section 8 (variation of type of licence or matters set out in licence); and
- c) any revocation of the authority of a licence.

11.5 Notification under subsection 11.4 must be given within 28 days of the notification, variation or revocation in question.

11.6 Where the authority notifies the Environment Agency under subsection 11.4, the body must amend the register under section 10 accordingly.

12. Display of Licence

12.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.

12.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it easily to be read by a person outside the vehicle.

13. Verification of Supplier's Identity

13.1 Prior to receiving scrap metal the scrap metal dealer must verify the person's full name and address by reference to documents, data or other information obtained from a reliable and independent source.

13.2 Should verification not be gained then each of the following are guilty of an offence:

- a) the scrap metal dealer;
- b) if metal is received at the site, the site manager;
- c) any person who, under arrangements made by a person within paragraph (a) or (b), has responsibility for verifying the name and address.

14. Payment for Scrap Metal

14.1 A scrap metal dealer must only pay for scrap metal by either:

- a) a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or
- b) electronic transfer of funds (authorised by a credit, debit card or otherwise).

14.2 Payment includes payment in kind – with goods or services.

15. Records: Receipt of Metal

15.1 If any metal is received in the course of the dealer's business the dealer must record the following information:

- a) description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features;
- b) date and time of receipt;
- c) the registration mark of the vehicle delivered by;
- d) full name and address of person delivering it;
- e) full name of the person making payment on behalf of the dealer.

15.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.

15.3 If payment is made via cheque, the dealer must retain a copy of the cheque.

15.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

16. Records: Disposal of Metal

16.1 The act regards the metal to be disposed of:

- a) whether or not in the same form it was purchased;
- b) whether or not the disposal is to another person;
- c) whether or not the metal is despatched from a site.

16.2 Where the disposal is in the course of business under a site licence, the following must be recorded:

- a) description of the metal, including its type (or types is mixed), form and weight;
- b) date and time of disposal;
- c) if to another person, their full name and address;
- d) if payment is received for the metal (by sale or exchange) the price or other consideration received.

16.3 If disposal is in the course of business under a collector's licence, the dealer must record the following information:

- a) the date and time of the disposal;
- b) if to another person, their full name and address.

17. Records: Supplementary

- 17.1 The information in sections 15 and 16 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.
- 17.2 The records mentioned in section 15 must be marked so as to identify the scrap metal to which they relate.
- 17.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of.
- 17.4 If a scrap metal dealer fails to fulfil a requirement under section 15 and 16 or this section each of the following is guilty of an offence:
- a) the scrap metal dealer;
 - b) if the metal is received at or (as the case may be) despatched from a site, the site manager;
 - c) any person who, under arrangements made by a person within paragraph (a) or (b) has responsibility for fulfilling the requirement.
- 17.5 It is a defence for a person within subsection 17.4 (a) or (b) who is charged with an offence under this section to prove that the person
- a) made arrangements to ensure that the requirement was fulfilled, and
 - b) took all reasonable steps to ensure that those arrangements were complied with.

18. Fees

AWAITING DETAILED GUIDANCE AND STATUTORY INSTRUMENTS

- 18.1 A Council may make a charge for a licence on a cost recovery basis (subject to Guidance issued by the Secretary of State).

19. Compliance

- 19.1 The Act provides a Police Constable and an Officer from the Council with a right to enter and inspect the premises of licensed and unlicensed scrap metal dealers. The full provisions of the powers are set out in Appendix 4.
- 19.2 The Act does not provide an Officer of the Council with the power to inspect premises of licensed and unlicensed scrap metal dealers outside the area of the authority.
- 19.3 The Council delivers a wide range of compliance services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade.

19.4 The administration and compliance of the licensing regime is one of these services.

19.5 Compliance will be based on the principles that businesses should:

- Receive clear explanations from regulators of what they need to do and by when;
- Have an opportunity to resolve differences before compliance action is taken, unless immediate action is needed;
- Receive an explanation of their right of appeal.

19.6 The council recognises the interest of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law. The council has set clear standards of service and performance that the public and businesses can expect.

19.7 In particular, a compliance policy has been created that explains how the council will undertake its role as Licensing Authority and how the principles of effective compliance will be achieved

19.8 The council has also established a compliance protocol with Essex Police and British Transport Police on compliance issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

20. Closure of Unlicensed Sites

20.1 Interpretation

A person with an interest in a premises is the owner, leaseholder or occupier of the premises.

Local authority powers are exercisable only in relation to premises in the authority's area.

20.2 Closure Notice

Not applicable if the premises are residential premises.

A constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.

A 'closure notice' may be issued by a constable or local authority which states they are satisfied of the above, the reasons for that, that the constable or local authority may apply to the court for a closure order and specifies the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice must be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.

The notice must be given to a person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

20.3 Cancellation of Closure Notice

A 'cancellation notice' issued by a constable or local authority may cancel a closure notice. This takes effect when it is given to any one of the persons to whom the closure notice was given. This must also be given to any other person to whom the closure notice was given.

20.4 Application for Closure Order

When a closure notice has been given, a constable or the local authority may make a complaint to the justices of the peace for a closure order. This may not be made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

A complaint under this paragraph may not be made if the constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable likelihood that the premises will be so used in the future.

The justice may issue a summons to answer to the complaint. This must be directed to anyone whom the closure notice was given and must include the date, time and place at which the complaint will be heard.

20.5 Closure Order

A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate. The use of the premises by a scrap metal dealer in the course of business be discontinued immediately and that any defendant pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

The closure order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of which the premises form part.

A closure order may include such provision as the court considers appropriate for dealing with the consequences if the order should cease to have effect.

As soon as practicable after the closure order is made, the complainant must fix a copy of it in a conspicuous position on the premises in respect of which it was made.

A sum ordered to be paid into court under a closure order is to be paid to the designated officer for the court.

20.6 Termination of Closure Order by Certificate

Once a closure order has been made and a constable or local authority is satisfied that the need for the order has ceased a certificate may be made. This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

As soon as is practicable after making a certificate, a constable or local authority must give a copy to any person against whom the closure order was made, give a copy to the designated officer for the court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

A copy of the certificate must be given to any person who requests one.

20.7 Discharge of Closure Order by Court

A closure order may be discharged by complaint to a justice of the peace. This can be done by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was given.

The court will make a discharge order if it is satisfied that there is no longer a need for the closure order. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person appear before the magistrates' court to answer to the complaint.

If a summons is issued, notice of the date, time and place at which the complaint will be heard must be given to all persons to whom the closure notice was given (other than the complainant).

20.8 Appeal

Appeal may be made to the Crown Court against:

- a) a closure order;
- b) a decision not to make a closure order;
- c) a discharge order;
- d) a decision not to make a discharge order.

The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made.

An appeal under a) or b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under b) and c) may be made by a constable or the local authority.

20.9 Enforcement of Closure Order

A person is guilty of an offence, without reasonable excuse, if they permit a premises to be open in contravention of a closure order, or fails to comply with, or does an act in contravention of a closure order.

If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

21. **Delegated Authority**

21.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision making.

TRANSITIONAL PROCESS

AWAITING DETAILED GUIDANCE AND STATUTORY INSTRUMENTS

DRAFT

1. APPLICATION PROCESS

An application for a licence should be made to the following address:

Licensing Department
Castle Point Borough Council
Kiln Road
Thundersley
Benfleet
Essex
SS7 1TF

To apply for a Scrap Metal Dealers Licence, applicants must be over ??? years of age and will need to complete an application form and send it to the Licensing Department together with:-

- a) Full name of applicant (if an individual), date of birth and usual place of residence;
- b) Name and registered number of the applicant (if a company) and registered office;
- c) If a partnership – full name of each partner, date of birth and usual place of residence;
- d) Proposed trading name;
- e) Telephone number and email address (if any) of applicant;
- f) Address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so;
- g) Any relevant environmental permit or registration in relation to the applicant;
- h) Details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application;
- i) Details of the bank account which is proposed to be used in order to comply with section 15;
- j) Details of any relevant conviction or enforcement action taken against the applicant.

For site licence, must also provide:

- a) Address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought);
- b) Full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant);
- c) Site manager details to be included for g), h) and j) above.

Please note the collectors licence allows a business or individual to operate within that authority's area, therefore individuals wishing to collect across the boundary of the local authority will be required to obtain a collectors licence from the relevant local authority where they wish to collect and sell.

You are required to provide a basic disclosure of criminal convictions with your application. This can be obtained direct from www.disclosurescotland.co.uk or by telephoning the Disclosure Scotland Helpline on 0870 609 6006. Please note that the disclosure is valid for one month from the date it was issued.

2. Further information, in addition to that required above

[Castle Point Council] may request (at the time of the application or later) an applicant to supply such further information as is considered relevant for the purpose of considering the application.

[Castle Point Council] requires the following additional evidence:

- Photographic evidence (Current valid Passport, driving licence photo ID and counterpart);
- Birth Certificate;
- Utility bill or other recent document which confirms the address of the applicant (must be less than 3 months old);
- Certificate of good conduct for applicants that have been out of the country for long periods, from the age of 10 years;
- Document showing a right to work (Residents Permit) where applicable;
- National Insurance Number.

The council may have regard to the following information, when considering the suitability of an applicant:

- Whether the applicant or any site manager has been convicted of any relevant offence;
- Whether the applicant or any site manager has been subject of any relevant enforcement action;
- Any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for refusal);
- Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- Any previous revocation of a scrap metal licence (and the reasons for the revocation); and
- Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

All of the above will apply to any director or any secretary of a company if the applicant is not an individual.

3. Fee

The application must be accompanied by the fee set by [Castle Point Council], under guidance from the Secretary of State with the approval of the Treasury.

4. Renewal

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn.

Refusal of application – licence expires when no appeal under Section ??

Making a false statement

An applicant who, in an application or in response to a request, makes a statement knowing it to be false in a material particular or recklessly makes a false statement is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

RELEVANT OFFENCES & PENALTIES

When considering the suitability of an applicant, [Castle Point Council] will take into consideration relevant offences, these include:

- Environmental Offences
- Customs and Excise Management Act 1979 (section 170)
- Fraud Act 2006 (section 1)
- Proceeds of Crime Act 2002 (sections 329, 330, 331 and 332)
- Theft Act 1968 (sections 1,8,9,10,11,17,18,22 & 25)
- Scrap Metal Dealers Act 1964
- Scrap Metal Dealers Act 2013
- Legal Aid, Sentencing and Punishment of Offenders Act 2012 (section 146)
- Vehicle (Crime) Act 2001 (as motor salvage operators)

This document should not be relied upon as an accurate statement of the law, only indicative of the general offences and penalties. You should seek independent legal advice if you are unsure of any information in this document.

Offences relating to scrap metal dealing and motor salvage are described below under the relevant statute.

In relation to the maximum penalties specified, the levels of fine are currently as follows:-

Level 1 - £200
 Level 2 - £500
 Level 3 - £1,000
 Level 4 - £2,500
 Level 5 - £5,000

Scrap Metal Dealers Act 2013

Section	Offence	Max Penalty
1	Carry on business as a scrap metal dealer without a licence	Level 5
8	Failure to notify authority of any changes to details given within application	Level 3
10	Failure to display site licence or collectors licence	Level 3
11 (6)	Receiving scrap metal without verifying the persons full name and address	Level 3
11 (7)	Delivering scrap metal to dealer and giving false details	Level 3
12 (6)	Buying scrap metal for cash	Level 5
13	Failure to keep records regarding receipt of metal	Level 5
14	Failure to keep records regarding disposal of metal	Level 5

15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	Level 5
15 (2)	Failure to keep copy of document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued	Level 5
15 (3)	Failure to keep information and record for three years	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

OFFENCES BY BODIES CORPORATE

1. Where an offence under the Act is committed by a body corporate and is proved:
 - a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer; or
 - b) to be attributable to any neglect on the part of any such individual.

The individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

2. Where the affairs of a body corporate are managed by its members, section 1 applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.

COMPLIANCE

RIGHT OF ENTRY

1. A constable or an officer of [Castle Point Council] may enter and inspect a licensed site at any reasonable time on notice to the site manager.
2. A constable or an officer of [Castle Point Council] may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
 - a) reasonable attempts to give notice have been made and failed, or
 - b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.
3. (1) and (2) above do not apply to residential premises.
4. A constable or an officer of [Castle Point Council] is not entitled to use force to enter a premises in the exercise of the powers under sections (1) and (2) above.
5. A justice of the peace may issue a warrant authorising entry (in accordance with section 7 below) to any premises within section 6 below if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:
 - a) securing compliance with the provisions of the Act, or
 - b) ascertaining whether those provisions are being complied with.
6. Premises are within this section if:
 - a) the premises are a licensed site, or
 - b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business
7. The warrant is a warrant signed by the justice which:
 - a) specifies the premises concerned, and
 - b) authorises a constable or an officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.

8. A constable or an officer of [Castle Point Council] may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.
9. A constable or an officer of [Castle Point Council] may:
 - a) require production of, and inspect, any scrap metal kept at any premises mentioned in section 1 or 2 or in a warrant under section 5;
 - b) require production of, and inspect, any records kept in accordance with section 15 or 16 and any other records relating to payment for scrap metal;
 - c) take copies of or extracts from any such records.
10. Section 14 below applies if a constable or an officer of [Castle Point Council] seeks to exercise powers under this section in relation to any premises.
11. If the owner, occupier or other person in charge of the premises requires the officer to produce
 - a) evidence of the officer's identity, or
 - b) evidence of the officer's authority to exercise those powersthe officer must produce that evidence.
12. In the case of an officer of [Castle Point Council], the powers under this section are exercisable only in relation to premises in the area of the authority.

APPEALS

An applicant may appeal to the Magistrates' Court against the refusal of an application or a variation. The licensee may appeal to a Magistrates' Court against the inclusion in a licence of a condition under section 7.2 or the revocation or variation of a licence under section 9.

An appeal must be made within 21 days beginning on the day the notice to refuse the application, to include the condition or to revoke or vary the licence under section 7 was given.

The procedure on an appeal under this paragraph is to be by way of complaint for an order and in accordance with the Magistrates' Court Act 1980.

For the purposes of the time limit for making an appeal, the making of the complaint is to be treated as the making of the appeal.

On appeal, the Magistrates' Court may confirm, vary or reverse the authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

The authority must comply with any directions given by the Magistrates' Court. Although the authority need not comply with such directions until the time for making an application under section 111 of the Magistrates' Courts Act 1980 has passed or if such an application is made, until the application is finally determined or withdrawn.

DELEGATION OF POWERS

DRAFT

FEES

AWAITING DETAILED GUIDANCE AND STATUTORY INSTRUMENTS

DRAFT

LICENSING COMMITTEE

AGENDA ITEM NO. 5

11th September 2013

Subject: Sexual Entertainment Venue Policy

1. Purpose of Report

- 1.1 The purpose of this report is to approve the draft of a Sexual Entertainment Venue policy for consultation prior to adoption.

2. Background

- 2.1 Castle Point Borough Council is able to regulate sex establishments including sex shops, sex cinemas and more recently Sexual Entertainment Venues.
- 2.2 The Council can set conditions and fees for the grant, variation, renewal and transfer of Sexual Entertainment Venue licences and the number of premises to be licensed in an area, which may be nil.
- 2.3 The aim of this policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing Committee when making a determination on an application. This policy will be reviewed on a regular basis and revised where necessary.
- 2.4 While each application will be dealt with on its own merits this policy gives prospective applicants an early indication as to whether their application is likely to be granted or not. The policy also provides prospective applicants with details of what is expected of them should an application be made. Not all premises will automatically require a licence, where there is an exemption within the legislation this has been set out in this policy document.

3. Present Position

- 3.1 The Council has no Sexual Entertainment Venues within the Borough at the present time.

4. Proposals

- 4.1 The Licensing Committee are asked to approve the draft Sexual Entertainment Venue policy for consultation and receive a further report on any comments received prior to its adoption.

5. Corporate Implications

(a) Financial Implications

5.1 There are no financial implications arising from this report.

(b) Legal Implications

5.2 The Policing and Crime Act 2009 (Commencement No 1 and Transitional and Savings Provisions) (England) Order makes special provisions in relation to Sexual Entertainment Venues and requires that the policy is adopted, monitored and reviewed.

(c) Human Resources and Equality Implications

Human Resources

5.3 There would be no Human Resources implications.

Equality Implications

5.4 Legislation requires the Council to consider how the decisions it makes and services it delivers affects people who share different “protected characteristics”. The Council must have “due regard” for the need to eliminate unlawful discrimination, harassment, victimisation to advance equality of opportunity and foster good relations between people who share it. Protected characteristics includes age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

(d) IT and Asset Management Implications

5.6 There would be no IT or Asset Management implications.

6. Links to Council’s Priorities and Objectives

6.1 This report is clearly linked to the Council’s Community Safety priority

7. Timescale for Implementation and Risk Factors

7.1 The consultation will begin on Monday 16th September 2013 and will last for three months ending on Monday 16th December 2013. The Policy will be brought back before the Licensing Committee on Tuesday 25th February 2014 to consider the response to consultation prior to final approval of the policy.

Recommendation

That Committee consider the content of the report and approves the policy for consultation.

Resolution Required**Background Papers**

Castle Point Statement of Licensing Policy

Report Author:

Chris Jacob Head of Licensing and Transportation



castlepoint

benfleet | canvey | hadleigh | thundersley

CASTLE POINT BOROUGH COUNCIL

**SEXUAL ENTERTAINMENT VENUE
POLICY**

CONTENTS

1. Introduction
 2. Sexual Entertainment Venues
 3. Waivers
 4. Making an Application
 5. Fees
 6. Making Objections to Applications
 7. Determination of an Application
 8. Unsuitability of an Applicant
 9. Number of Sexual Entertainment Venues
 10. Relevant Locality
 11. Conditions
 12. Renewal Applications
 13. Revocation of a Sexual Entertainment Venue Licence
 14. Cancellation of a Sexual Entertainment Venue Licence
 15. Variation of a Sexual Entertainment Venue Licence
 16. Minor Variation of a Sexual Entertainment Venue Licence
 17. Right to Appeal to a Decision
- Annex A – Standard Conditions Prescribed by Regulations

INTRODUCTION

1.1 Castle Point Borough Council ("the Council") is able to regulate sex establishments through Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act"), in particular sex shops and sex cinemas and more recently Sexual Entertainment Venues. Those premises are those which provided lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows and other similar entertainment.

1.2 The legislation allows the Council to set conditions and fees for the grant, variation, renewal and transfer of SEV licences and the number of premises to be licensed in an area, which may be nil.

1.3 The aim of this policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing Committee when making a determination on an application. This policy will be reviewed on an annual basis and revised where necessary.

1.4 While each application will be dealt with on its own merits this policy gives prospective applicants an early indication as to whether their application is likely to be granted or not. The policy also provides prospective applicants with details of what is expected of them should an application be made. Not all premises will automatically require a licence, where there is an exemption within the legislation this has been set out in this policy document.

1.5 The Council does not take a moral stance in adopting this policy. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a Licensing Authority to regulate such premises in accordance with the law.

2. Sexual Entertainment Venues

2.1 A SEV is defined in the 2009 Act as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer".

2.2 The meaning of 'relevant entertainment' is "any live performance or live display of nudity which is of such a nature that, ignoring financial gain it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)".

2.3 These definitions would apply to the following forms of entertainment [as they are commonly known]: lap dancing; pole dancing; table dancing; strip shows; peep shows and live sex shows.

2.4 It must be noted that the above list is not exhaustive and does not include private dwellings to which the public are not admitted. Decisions to licence premises as SEVs shall depend on the content of the entertainment provided and not the name it is given. As such each case will be considered on its own merits by the Council as the Licensing Authority.

2.6 Premises which provide regulated entertainment on an infrequent basis will continue to be regulated under the 2003 Act insofar as they are providing regulated entertainment under that Act either by virtue of a premises licence or club premises certificate or a temporary events notice issued under that Act.

2.7 In practice this means that the vast majority of lap dancing clubs and similar venues will require both a SEV licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provisions of other types of regulated entertainment not covered by the definition of relevant entertainment.

2.8 Live music or the playing of recorded music which is integral to the provision of relevant entertainment such as lap dancing for which a SEV licence is required is specifically excluded from the definition of regulated entertainment in the 2003 Act. Therefore, a SEV will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to.

3. Waivers

3.1 Schedule 3 of the 1982 Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit.

3.2 The Council does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of SEVs, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than 11 occasions within a 12 month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

3.3 The Council may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on a date not less than 28 days from the date the notice is given.

3.4 Whilst each application will be considered on its own merits by the Licensing Committee in light of the exemption in relation to the provision of relevant entertainment on an infrequent basis the Council takes the view that waivers are unlikely to be appropriate in relation to relevant entertainment and would only be considered in exceptional circumstances.

4. Making an Application

4.1 The 1982 Act provides a maximum licence period of one year. The authority may grant a shorter licence if it thinks fit. A shorter period may be granted for example where a licensee wants a licence for a limited period for a trade exhibition or a show.

4.2 An application for the **grant, variation, renewal** or **transfer** of a licence must be made in writing to the Licensing Authority together with the application fee in accordance with the requirements set out below.

4.3 There are three separate notice requirements:

1. The applicant must, within seven days after the date of the application, publish an advertisement in a local newspaper circulating in the local authority's area. A suggested form of advertisement is available on request from the Licensing Section.
2. Where the application is in respect of premises the applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of application. Again a suggested form of notice is available on request.
3. The applicant must send a copy of the application to the Chief Officer of Police no later than seven days after the date of the application. Where the application is made electronically it is for the Local Authority itself to send the copy within seven days of receipt of the application.

4.4 The application form can be used for grant, variation, transfer and renewal applications. Applicants must provide their name, address, age (where the applicant is an individual), the premises address and the proposed licensed name of the premises.

4.5 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

4.6 In addition applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority.

4.7 Applicants for SEVs must also submit a copy of their "club rules". Such club rules must contain the required conduct of performers which shall include for example, no sex acts, no giving or taking phone numbers (including exchange of business cards).

4.8 Such club rules will form part of the licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.

4.9 Officers of the Licensing Department may, as part of the application process, visit the locality of the premises to establish whether there are any characteristics of the locality which may require consideration by the Licensing Committee.

4.10 With regards to online application tacit authorisation does not apply to new grant applications for SEV licences. This means the applicant must wait for the Licensing Authority to determine the application before they can operate a SEV.

5. Fees

5.1 The 1982 Act permits the authority to set a reasonable fee. At the meeting of the Council's Licensing Committee held on 7th November 2011 licensing fees in respect of sex shops and sex cinemas were approved to recover the costs of carrying out the licensing function under that Act namely: administration (including any hearings or appeals), inspection and enforcement.

5.2 The above process is also applicable to the function of licensing SEVs and the appropriate fees for applications can be found on the Council's website.

5.3 It must be noted that application fees must be paid in full at the time of submission of the application and that these fees will be reviewed annually during normal budgetary processes.

6. Making Objections to Applications

6.1 The 1982 Act permits a wide range of persons to raise objections about the **grant, renewal, variation or transfer** of a SEV licence. Objectors can include residents, resident associations, trade associations, businesses, Councillors (providing they do not sit on the Licensing Committee or Sub-Committees) or MPs. The Police are a statutory consultee for all applications.

6.2 Objections must be made in writing (email is acceptable) no later than 28 days after the date of the application to the Licensing Authority and should include the following:

- ☐ the name and address of the person or organisation making the objection;
- ☐ the premises to which the objection relates;
- ☐ the proximity of the premises to the person making the objection, a sketch map or plan may be helpful to show this.

6.3 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The grounds relevant to the majority of objectors are as follows:

That the grant or renewal of the licence would be inappropriate:

- ☐ having regard to the character of the relevant locality, or
- ☐ the use to which any premises in the vicinity of the premises, vehicle or vessel or stall in respect of which the application is made.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the 1982 Act will be rejected by the Licensing Department.

Where objections are rejected the objector will be given written reasons.

6.4 The Licensing Authority 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 the Licensing Service and where objections are rejected the objector will be given written reasons.

6.5 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.

6.6 Objections will be considered by the Licensing Committee determining the application. The applicant will be informed of any objections received in respect of their application and the objection(s) will become public documents. (However, objector's personal details such as name address and telephone number will be removed.) A copy of the hearing procedure will be sent to the applicant and any objectors prior to the hearing.

7. Determination of an Application

7.1 *All applications for the grant of a SEV licence will be determined by the Licensing Committee.* Valid objections *to any application* will be considered by the Licensing Committee or delegated to a Licensing Sub Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing Committee's procedure for hearings, which is available from the Licensing Department.

7.2 The 1982 Act provides five mandatory grounds and four discretionary grounds for refusal of a SEV licence. Each application for a SEV will be decided upon its own merits and the Licensing Authority will give clear reasons for its decisions. Any decision to refuse a licence **MUST** be relevant to one or more of the following grounds:

7.3 Mandatory grounds for refusal

Specific mandatory grounds for refusal of a licence are set out in paragraph 12(1) (a to e) of Schedule 3 in the 1982 Act. A licence cannot be granted:

- (a) to any person under the age of 18 years;
- (b) to any 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;
- (c) to any 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
(d) to a body corporate which is not incorporated in an EEA State; or
(e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that 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.

7.4 Discretionary grounds for refusal

The only discretionary grounds upon which the Council may refuse an application for the grant or renewal of a licence on one or more of the grounds specified in Schedule 3 paragraph 12(3) are that:

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

7.5 If none of the above applies to the applicant and no objections have been received and there are no other statutory grounds for refusal, including that the application does not exceed any permitted numbers, the application will be granted by way of delegated authority.

8. Unsuitability of an Applicant

8.1 In respect of 8.4(a) and (b) above with regard to the unsuitability of an applicant to hold a licence, the criteria for Members to consider are:

- ☐ that the operator is honest.
- ☐ that the operator is qualified by experience to run the type of sex establishment in question.
- ☐ that the operator understands the general conditions.
- ☐ That the operator is proposing a management structure which delivers compliance with the operating conditions e.g. through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for welfare of performers.
- ☐ that the operator can be relied upon to act in the best interests of performers e.g. in how they are remunerated, the facilities they enjoy,

how they are protected and how and by whom their physical and psychological welfare is monitored.

☐ that the operator can be relied upon to protect the public e.g. transparent charging, freedom from solicitation.

☐ that the operator can show a track record of management of compliant premises, or that he/she will employ individuals who have such a track record.

9. Number of Sexual Entertainment Venues

9.1 As set out within paragraph 8.4(c) above, paragraph 12 of Schedule 3 provides that a Local Authority may refuse an application if it is satisfied that the number of sex establishments or of a particular kind in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.

9.2 The Council may choose to set a guidance upper limit on the number of SEVs which it considers appropriate in any locality within the Council's administrative area but each application will be considered on its merits.

10. Relevant Locality

10.1 With reference to paragraph 8.4(d) 'relevant locality' for the purposes of paragraph 12 of Schedule 3 of the Act means:

- (i) in relation to the premises, the locality where they are situated, and
- (ii) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

10.2 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Licensing Authority shall consider, among other considerations, whether the grant of the application would be inappropriate, having regard to:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or no frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets;
- (e) places and or buildings of historical/cultural interest, tourist attractions.

10.3 The Council will consider the extent of the locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define locality as the whole of the Council's

administrative area.

10.4 When hearing an application for the grant of a SEV licence, the Committee shall have regard to the guidelines set out above but subject to the overriding principle that each application will be determined on its merits.

10.5 The Council would (normally) expect that applications for SEV licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

11. Conditions

11.1 When issuing a SEV licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued either in the form of conditions specific to the individual or standard conditions applicable to all SEVs.

11.2 The Council has decided to produce regulations prescribing standard conditions and these shall apply to every licence granted, varied, renewed or transferred by the authority unless they have been expressly excluded or varied. These regulations are attached to this policy at annex A.

11.3 A person who runs a SEV without a licence or contravenes a condition of the licence is guilty of an offence and is liable to a fine of up to £20,000.

12. Renewal Applications

12.1 Where before the date of expiry of a licence an application has been made for its renewal it shall be deemed to remain in force until the withdrawal of the application or its determination by the Council.

12.2 The statutory requirements for advertising, giving notice, consideration by the Council, hearings and the giving of the reasons are the same as those applying to initial grants, which are dealt with at paragraphs 5-12.

13. Revocation of a Sexual Entertainment Venue Licence

13.1 A licence can be revoked by the Council at any time on any one of the grounds set out in 8.3(a - e) or any one of the grounds set out in 8.4(a and b) of the policy.

13.2 The Council will not revoke a licence without the licence holder being given an opportunity to appear before the Licensing Committee or a Sub-Committee and be heard.

13.3 Where a licence is revoked, the Council shall give the licensee a statement in writing of reasons for its decision within seven days of the request being made. Where a licence is revoked its holder will be disqualified from holding or obtaining a licence in the area of the Local Authority for a period of 12 months from the date of revocation.

13.4 When the authority revokes a licence, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

14. Cancellation of a Sexual Entertainment Venue Licence

14.1 The Council may at the written request of the licence holder cancel the licence.

14.2 If a licence holder dies then the licence will be deemed to have been granted to the licence holder's personal representatives and will remain in force for three months from the date of the licence holder's death and will then expire.

14.3 The Council can, however, on the application of the licence holder's personal representatives extend the three month period if the Council is satisfied that an extension is necessary for the purpose of winding up the late licence holder's estate. The Council will only do so where there are no circumstances that make such an extension undesirable.

15. Variation of a Sexual Entertainment Venue Licence

15.1 A licence holder may at any time apply to vary a term, condition or restriction of a licence or apply to change the location of a licensed vessel or stall. The statutory requirements for advertising, giving notice, consideration by the Council, hearings and the giving of the reasons are the same as those applying to initial grants, which are dealt with at paragraphs 5-12. On receiving such an application, the Council can either:

- (a) make the variation as requested;
- (b) make such variations as it thinks fit;
- (c) refuse the application.

15.2 The applicant will be given an opportunity to attend a Licensing Committee or Sub-Committee before a decision is made to make a variation other than that being applied for or to refuse the application.

15.3 Where the Council imposes some other term, condition or restriction other than one sought in the variation application, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

16. Minor Variation of a Sexual Entertainment Venue Licence

16.1 A minor variation application shall be required by the Council in respect of any: alterations or additions, either internal or external and whether permanent or temporary to the structures, lighting or layout of the premises including any change in the permitted signs on display such as but not limited to the licensed name of the premises; change of company director secretary or other person responsible for the management of the body corporate or an

unincorporated body.

16.2 A licence holder may at any time apply for a minor variation together with an amended plan and appropriate fee in accordance with the following requirements:

- (a) display a notice on white paper for a period of 14 clear days starting with the day on which notice is served on the Council, on or near the premises;
- (b) send a copy of the application to the Chief Officer of the Police for the police area in which the premises are located and Environmental Health within 7 days of making the application to the Council.

16.3 An officer with the appropriate delegated authority shall authorise the minor variation within 28 days of receipt of the application unless the officer (whose decision shall be final) does not regard the proposals as a minor variation and/or a valid objection is received to the application in which case the matter shall be listed for hearing at the next available Licensing Committee or Sub-Committee convened for such purposes.

17. Right to Appeal a Decision

17.1 The decisions against which a right of appeal lies are refusals for the grants, renewals, variations or transfers, the imposition of conditions and also revocation.

17.2 Appeals must be made to the Magistrates Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.

17.3 It is important to note that appeals only lie against the mandatory refusals on the basis that the mandatory ground does not apply to the applicant/licence holder. Further, no appeal lies against the Licensing Authority's decision made on the discretionary grounds set out at paragraphs 8.4(c and d), namely:

- ☐ that it is inappropriate to grant or renew a licence on the grounds of the character of the locality or the number of premises in it; or
- ☐ the use of premises in the vicinity or the layout, character or condition of the premises.

17.4 The only discretionary grounds against which an appeal lies are those in paragraph 8.4(a and b) relating to the suitability of the applicant, the manager and/or the beneficiary of the operation.

ANNEX A

CASTLE POINT BOROUGH COUNCIL

STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES (SEV) EFFECTIVE FROM 3 JANUARY 2011

These regulations are made under paragraph 13(1) of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the “1982 Act”) as amended by the Policing and Crime Act 2009 (the “2009 Act”) to prescribe conditions. In these Regulations, except when the context otherwise requires, the following expressions shall have the following meanings:

- (1) “The Council” shall mean the Castle Point Borough Council and all enquiries concerning these Regulations and its conditions shall be directed to Licensing Department, Castle Point Borough Council, Kiln Road, Benfleet, Essex. SS7 1TF. These conditions apply to all premises licensed as a “sexual entertainment venue” as defined by the said 1982 Act that is to say terms, conditions and restrictions on or subject to which licences under Schedule 3 of the 1982 Act are in general to be granted, renewed, varied or transferred.
- (2) “Sexual Entertainment Venue” (‘SEV’) means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser or the entertainer.
- (3) “Premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
- (4) ‘Relevant Entertainment’ means any live performance or 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).
- (5) The Council may at any time waive, modify or vary these conditions or impose additional special conditions in any particular case.
- (6) If the Licensee wishes any of the terms of the licence to be varied an application must be made to the Council.
- (7) In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

OPENING HOURS

1. The licensed premises shall not be open nor used for the purposes for which the licence is granted except between the hours prescribed within the licence or those hours of operation determined by the Licensing Committee.

WINDOW, FASCIA BOARD ADVERTISEMENT AND DISPLAYS

2. The interior of the premises shall not be visible to passers-by and to that intent the licensee shall ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.

3. The windows, doors fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:

- (a) The address of the premises.
- (b) The licensed name of the premises.
- (c) A notice stating the opening hours of the establishment.
- (d) In the case of a licence granted to a body corporate:
 - (i) If the premises name is not the same as the full name of the body corporate then such corporate name and;
 - (ii) If the premises are also the body's registered office for the purposes of the Companies Acts then an indication in a form acceptable to the company that such is the case.

4. The lettering used in respect of such permitted items shall be of such colour and style as may be approved by the Council.

5. The licensee shall not permit the display outside of the premises of photographs or other images which indicate or suggest that relevant entertainment takes place in the premises.

LICENSED NAME

6. At the time of granting the licence in respect of the premises the Council will appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licensee shall ensure that the premises are known solely by that name and by no other, save as provided for by the paragraph below.

7. To change the licensed name, a minor variation application shall be made to the Council not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

EXHIBITION OF LICENCE

8. A copy of the Licence and these Regulations as issued by the Council shall be retained in a clean and legible condition, suitably framed and exhibited in a position that can easily be seen by all persons using the premises.

9. A copy of the conditions of the Licence and these Regulations (so far as they relate to the performances) shall be given to all performers at the premises and a copy shall be exhibited in the performers changing rooms at all times the premises are open.

RESPONSIBILITY OF THE LICENSEE

10. The licensee shall take all reasonable precautions for the safety of the public and employees on its premises and, except with the consent of the Council, shall retain control over all parts of the premises. Any request to sublet the premises following the grant of a licence will be determined through an application to vary the licence granted.

11. The premises shall not be used for regulated entertainment as defined by the Licensing Act 2003, exhibition or display of any kind unless the Council's consent has first been obtained and any necessary licence granted.

12. The licensee, or any person purporting to act upon their behalf, shall be responsible for ensuring compliance with these and any special conditions of the licence and will be held responsible for any breach thereof.

13. The licensee or a responsible person over 18 years of age nominated by them in writing for the purpose of managing the SEV in their absence shall be in charge of and upon the premises during the whole time they are open to the public.

14. The written nomination referred to in condition 13 above shall be maintained in a daily register, kept on the premises and made continuously available for inspection by an officer authorised by the Council or police officer.

15. The person in charge shall not be engaged in any duties which will prevent them from exercising general supervision and they shall be assisted as necessary by suitable adult persons to ensure adequate supervision.

16. A notice showing the name of the person responsible for the management of the SEV shall be prominently displayed within the SEV throughout the period during which they are responsible for its conduct.

17. The licensee must ensure that there is a current insurance policy in force to cover the performers whilst the premises are open and that a copy is displayed in areas where all staff have access.

EMPLOYEES AND MANAGEMENT STAFF

18. The licensee shall at all times keep and maintain at the licensed premises a written record of the names, addresses, and copies of photographic proof of age documents of all persons employed or performers contracted to operate within the licensed premises whether upon a full or part time basis and shall, upon request by an authorised officer of the Council or police officer, make such records available for inspection to them.

19. The term contracted does not relate to persons engaged to carry out repairs or provide services from external companies to the premises, however, these such persons must be aged 18 years and over if the premises are open for business.

20. The licensee shall ensure that all persons employed or contracted to work within the licensed premises hold the appropriate rights to work and shall keep copies of any documentation used to verify the details of these rights where necessary.

21. The licensee or a responsible person purporting to act upon their behalf shall at all times provide the Council with written notification as to the names, addresses and dates of birth of such person or persons (whether employees or otherwise connected with the business) who have authority to manage the premises in the licensee's absence.

22. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified by way of a minor variation application to the Council within 14 days of such change.

CHANGE OF LOCATION AND ALTERATIONS TO PREMISES

23. Where licensed premises are a vessel or stall, the licensee shall not move the licensed vessel or stall from the location specified in the licence unless a variation application is submitted for the Council's determination giving not less than 28 days notice. This requirement shall not apply to a vessel or stall which habitually operates from a fixed location but which is regularly moved (whether under its own propulsion or otherwise) from another place such location as is specified in the licence.

24. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises, including any change in the permitted signs on display ("minor variations") shall not be made except with the prior approval of the Council.

25. The applicant for a minor variation to the premises shall send to the Council a completed form accompanied by a revised plan where applicable of the proposed changes together with the minor variation fee and display a notice on white paper for a period of 14 clear days starting with the day on which notice is served on the Council, on or near the premises.

26. A copy of the minor variation application and any revised plan comments as above shall also be submitted to the chief officer of the police for the police area in which the premises are situated and Environmental Health Service within 7 days of making the application to the Council.

CLUB RULES

27. Any club rules imposed on the performers shall be displayed in a prominent position within the premises for all employees to have easy access whilst at work.

28. A copy of the club rules shall be provided to performers engaged by the premises by means of a written contract signed by the recipient. Copies of the same must be retained on the premises and produced to an authorised officer of the Council or police officer on request.

FEES

29. Receipts or records of payments received should be provided to performers where "house fees" are charged or when any fines are issued.

PERFORMANCES

30. No person under the age of 18 shall be on the licensed premises. A notice shall be clearly displayed at the entrance to the premises in a prominent position stating that "No person under 18 will be admitted" so that it can be easily read by persons entering the premises.

31. Each area where relevant entertainment is conducted shall be supervised and contain a panic alarm for the safety of performers.

32. All areas within the premises shall display signs advising clients of the club rules and conditions of the licence regarding improper performances.

33. Performers shall be aged not less than 18 years.

34. Full nudity is only permitted in the approved designated areas, as stipulated or shown on the approved plan attached to the licence. With the exception of the designated areas, in all other areas within the premises the performers and employees must at all times wear at least a G string (female) and or pouch (male) covering the genitalia as well as one other over layer of clothing.

35. During any performance (including performances usually termed 'private dances') there must not be any deliberate contact, by the performer, with any patron or person within the viewing audience except:

- a. Leading a patron hand in hand to and from a chair or private room or designated dance area.
- b. Simple handshake greeting at the beginning and/or end of the performance.
- c. A customary ("peck on the face") kiss at the end of the performance.
- d. The placing of monetary notes or dance vouchers into the hand or garter worn by the performer.

36. No performances shall include any sex act with any other performers, patrons, employees, contractors, or with the use of any objects.

37. A price list shall be displayed in a prominent position giving the price and the time allowed for any of the performances.

38. Any person connected with or employed by the business who can be observed from outside the premises must be dressed. Scantily clad individuals must not exhibit in the entrance way or in the area surrounding the premises. (Scantily clad shall mean that nudity or underwear is visible).

39. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except within the toilets or within the performers dressing rooms and staff areas.

40. At all times during a performance, performers shall have unrestricted access to a dressing room.

41. Patrons or members of the audience shall not take photographs or record digital images of performers within the premises via a camera or mobile phones

DOOR SUPERVISORS

42. The licensee shall ensure all door supervisors employed or contracted to work on the premises are suitably licensed by The Security Industry agency or appropriate agency.

43. An adequate number of licensed door supervisors, based on a risk assessment undertaken by the licensee, shall be on duty on the premises whilst relevant entertainment takes place.

44. At least one door supervisor shall be on duty at the premises at all times when the relevant entertainment takes place.

CCTV

45. CCTV shall be installed in each room within the premises where the public has access save for the toilet and staff areas. All cameras shall continuously record whilst the premises are open to the public and video or digital recordings shall be kept available for a minimum of twenty eight days.

46. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers, cleared of staff and closed.

47. The premises will provide any footage of any recordings upon request by a police officer or an authorised officer of the Council within 24 hours of the request.

TOUTING FOR BUSINESS AWAY FROM THE PREMISES.

48. The licensee shall not allow the use of vehicles including limousines for the promotion of the relevant entertainment.

49. The collection of patrons and or potential clients is not permitted unless the vehicle is licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

50. The licensee or its agents, servants, employees, contractors or performers shall not tout for business and or customers outside of or away from the licensed premises by any means unless authorised by the Council in writing.

51. The licensee shall ensure that any marketing communications associated with the SEV or relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.

ADMISSION OF AUTHORISED OFFICERS

52. Officers of the Council, Police, and other authorised agencies who are furnished with authorities which they will produce on request shall be admitted immediately at all reasonable times and at any time the premises are open for business to all parts of the premises.