



Name of meeting and date: **Licensing and Safety Committee 11th February 2015**

Title of report: **Local Government (Miscellaneous Provisions) Act 1982 – Sexual Entertainment Venues**

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	
Is it eligible for "call in" by Scrutiny ?	Yes
Cabinet member portfolio	

Electoral [wards](#) affected and ward councillors consulted: **All wards**

Public or private: **Public**

1. Purpose of report

1.1 This report asks members to consider the adoption of the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in relation to the introduction of a policy relating to sex establishments, and the licensing of a new category of sex establishment called sexual entertainment venue.

1.2 The Council previously adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, in the late 1980's and was adopted in order to regulate 'sex establishments'.

1.3 'Sex establishments' means 'sex shops' or 'sex cinemas'.

2. Introduction

2.1 Section 27 of the Policing and Crime Act 2009 introduced a new category of sex establishment called 'sexual entertainment venues' (SEV's), and in doing so amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 so as to allow local authorities to regulate lap dancing clubs and similar venues. However, for the new provision to have effect the Council must first resolve to adopt the amended Schedule 3.

If the Council chooses not to make a resolution to adopt the new provisions within one year of them coming into force, that is by 5th April 2011, then it must, as soon as is reasonably practicable, consult local people about whether it should make such a resolution, before it can be adopted.

3. Background

3.1 The Council currently has the ability to regulate three types of sex establishments; that is sex shops, sex cinemas and hostess bars.

3.2 As mentioned, Section 27 of the Policing and Crime Act 2009 introduces a new category of sex establishment called a 'sexual entertainment venue' and also closes a loophole provided by the Licensing Act 2003 (LA2003), whereby licensed premises can offer entertainment of a sexual nature without any stronger controls than those provided by the LA 2003. If adopted the revised 82 Act gives local authorities more powers to control the number and location of lap dancing clubs and similar venues in their area.

3.3 In addition it allows local authorities to refuse an application on potentially wider grounds than is permitted under the Licensing Act 2003, thereby giving local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

3.4 Section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment'

A sexual entertainment venue is defined as:

'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.'

The 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 purposes of sexually stimulating any member of an audience (whether by verbal or other means)'

3.5 The most common forms of relevant entertainment are likely to be:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

3.6 Premises which provide 'relevant entertainment' on an infrequent basis will continue to be regulated under the Licensing Act 2003, insofar as they are providing regulated entertainment by virtue of a premises licence, club premises certificate or a temporary event notice issued under that Act. Premises that continue to be licensed under the Licensing Act 2003, by virtue of an exemption, any premises that provide

'relevant entertainment' meeting the criteria of the exemption are defined as premises where:

- No relevant entertainment has been provided on more than 11 occasions within a 12 month period.
- No such occasion has begun within a period of one month beginning with the end of the previous occasion, and
- No such occasion has lasted longer than 24 hours.

3.7 The new legislative controls available to licensing authorities will strengthen the role that local communities can play in deciding whether a sex establishment venue is appropriate for a particular locality. The provisions bring the licensing of lap dancing premises and similar venues in line with other 'sex establishments' and allow licensing authorities to prescribe standard conditions on grounds not covered by the Licensing Act 2003 e.g. location, hours, display of adverts and the visibility of the interior of the premises.

3.8 Functions under Schedule 3 1972 Act are the responsibility of full Council; however Section.101 allows the Licensing Authority to arrange for delegation to a subcommittee (Licensing Committee)

3.6 While licensing authorities are not required to publish a licensing policy relating to sex establishments, they can do so if they wish as long as it does not prevent any individual application from being considered on its merits at the time the application is made.

3.7 A draft policy has been drafted and is at appendix A.

3.8 To assist the committee a period of public consultation has been carried out between 3rd December 2014 and the 9th January 2015. A short questionnaire has been sent out to an extensive list of consultees. Please see results of the consultation attached at appendix B, and a full list of consultees at appendix C.

4. Recommendation

4.1 The Committee is asked to determine whether to recommend to Council that Kirklees Council should resolve to to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 in the Kirklees area.

4.2 That the Committee determine whether to recommend the adoption of a Sexual Entertainment Venue policy in relation to sex establishments, as at appendix A.

5. Legal Powers & Implications

5.1 Without a resolution to adopt the new legislative provisions contained in S.27 of the Policing and Crime Act 2009 the Council will not be able to apply any additional controls to any sex entertainment venues which may open in Kirklees. . These would have to be regulated under the Licensing Act 2003 and would be subject to less stringent controls.

6. Financial Implications

6.1 No significant financial implications

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Kirklees
COUNCIL

SEX ESTABLISHMENT LICENSING POLICY

DRAFT

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Part A – General Considerations

1. Preface

- 1.1 Kirklees Council proposes to adopt schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) which allows the Council to licence sex shops, sex cinemas and sexual entertainment venues. In this policy, such premises will be referred to as 'sex establishments'.
- 1.2 This document contains the draft policy of Kirklees Council on the regulation of sex establishments. It is intended to apply to all applications received after the date on which it is approved by the Council.
- 1.3 The Council does not take a moral stand on adopting this policy. The Council recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a licensing authority is to administer the licensing regime in accordance with the law.
- 1.4 At the time of preparing this policy the Council licenses three sex shops, their addresses are set out in Appendix A to this policy. The number of licensed sex shops could change prior to this policy being approved.
- 1.5 At the time of preparing this policy there are currently two premises in Kirklees which require a sexual entertainment venue licence under the 1982 act as amended to operate lawfully. The number of such premises could change prior to this policy being approved.

2. Relevant Locality

- 2.1 The Council can only refuse a grant or renew a sex establishment licence on one or more of the specific grounds set out in schedule 3 to the 1982 Act. For ease of reference, these are reproduced in Appendix B to this policy.
- 2.2 Two of these grounds (against which there is no statutory right of appeal) are that:
 - (1) *The number of sex establishments in the locality where they are situated at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality.*
 - and*
 - (2) *The grant of renewal of the licence would be inappropriate having regard to-*

- (i) *The character of the locality where they are situated, or*
- (ii) *The use to which any premises in the vicinity are put, or*
- (iii) *The layout, character or condition of the premises in respect of which the application is made.*

2.3 The first of the above grounds means that a licence application may be refused if when a licence is considered the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority would consider appropriate for that locality.

2.4 With regards to the second of the above grounds, the council has decided, without prejudice to the generality of the statutory ground, that it would be inappropriate to grant or renew a sex establishment licence in any case where:

- The character of the locality is of a residential or predominantly residential nature
- The character of the locality is historically important
- Premises in the vicinity are used for religious worship
- Premises in the vicinity are used for schools, children's nurseries, youth clubs, children's centres or similar such establishments which children under 18 years of age may reasonably be expected to attend.
- Premises in the vicinity are used for community facilities including, but not limited to, swimming pools, leisure centres, public parks, sheltered housing, and accommodation for vulnerable people.
- Premises in the vicinity are used for sex establishments
- The application premises are of a permanent character and do not have the necessary planning permission in place to enable the licensed activities sought to occur lawfully

The above grounds will not however prevent any individual application from being considered on its own merits at the time the application is made, but the above considerations are unlikely to be overridden except in exceptional circumstances.

3.0 Existing premises seeking licences to be Sexual Entertainment Venues.

3.1 For the avoidance of doubt, when considering applications from existing premises, the Council will take into account the guidance contained in paragraph two above.

3.2 The Council would also consider how the venue has operated previously and any complaints received. The Council may check with West Yorkshire Police to ascertain whether they have any concerns about the management of the premises.

3.3 Experience of operating a sex establishment premises previously within Kirklees will also be taken into account.

4.0 Children

- 4.1 The licensing authority is committed to protecting children from harm and views this as an important licensing objective. The Council's licensing team works with Children's Services during the development of licensing policy where the protection of children is concerned. Intelligence sharing and the exchange of current strategy developed by the Kirklees Council's Safeguarding Children Board ensure that the protection of children from harm remains key.
- 4.2 The Licensing Authority has become aware from intelligence sharing with partners, that alcohol use, misuse and abuse is one of the recurring key 'parental factors' in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families.
- 4.3 Parental neglect may be a factor in risk taking behaviour by young people who may also drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on a variety of licensed premises, or licensed premises being used for the purposes of grooming and enticement.
- 4.4 Kirklees Safeguarding Children Board (KSCB) works with other statutory authorities and will engage with the licensing trade to promote risk management in relation to child sexual exploitation. The KSCB can provide advice to assist licensees to identify risk and report concerns at different types of licensed premises so that children remain safe and businesses operate responsibly.
- 4.5 The Licensing Authority encourages licence holders and operators of licensed premises:
- To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime and
 - To raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

The Kirklees Safeguarding Children Board has a webpage dedicated to providing local information about child safety, child sexual exploitation, policies and procedures including risk factors and signs and symptoms:

<http://www.kirkleessafeguardingchildren.co.uk/>

5.0 Applications

5.1 The Council may specify the form of application for the grant, renewal or transfer of a Sex Establishment Licence or renewal of an existing one submitted after the date of the approval of this policy must be accompanied by a scale plan showing the extent of the premises seeking to be licensed and such other information as may be from time to time specified.

5.2 The applicant must give public notice of the application by publishing, within 7 days of making the application, an advertisement in a local newspaper circulating in Kirklees. In addition, public notice of the application shall be displayed on or near the application premises, so that it can be read conveniently, for 21 days from the date of the application. The Council may specify the form of public notice.

5.3 The applicant must give a copy of the application to the chief officer of West Yorkshire Police within 7 days after the date of the application.

6.0 Fees

6.1 All applications for the grant, renewal or transfer of sex establishment licences must be accompanied by a non-returnable application fee. The fees are reviewed annually against any rise in Council costs of administering the licence regime.

7.0 Objections

7.1 Objections may be made by any person to an application for the grant renewal or transfer of a sex establishment licence.

7.2 An objection must be in writing and state the grounds on which the objection is made.

7.3 Objections may only be made within the period of 28 days following the date on which the application was given to the Council.

7.4 The Council will not consider any objection that does not contain the name and address of the person making it.

7.5 Where objections are made the Council will provide copies to the applicant. The Council will not divulge the identity of the objector/s to the applicant without the consent of the objector's to do so.

7.6 Where objections are made and not withdrawn, a committee or subcommittee will be held to consider the application and the written representations. The committee or subcommittee will also have regard to any observations submitted by West Yorkshire Police.

7.7 The applicant, licence holder or person to whom a licence is intended to be transferred will be given the opportunity to attend and be heard by the committee or subcommittee, in line with the provisions of the 1982 Act, any objectors do not have the right to be afforded an oral hearing but, at the discretion of the council may be afforded such an opportunity.

7.8 Applicants or licence holders that are aggrieved by a decision of the Council may (depending on the precise reasons of the Council's decision) have a right of appeal to the Magistrates Court within 21 days beginning on the date of which the person is notified of the Council's decision. Any person considering an appeal is recommended to seek independent legal advice from a solicitor before doing so.

7.9 The grounds upon which the Council must or may refuse a licence are fixed by the 1982 Act and are shown in Appendix B to this policy for information.

7.10 Where no objections are made, the Council will grant the licence subject to standard terms, conditions and restrictions set out in the relevant regulations.

8.0 Revocation of Licences

8.1 The Council may revoke a licence:

- On any grounds specified in paragraph 1 of Appendix B to this policy;
- On either of the grounds specified in paragraph 3(a) and (b) of Appendix B to this policy.

8.2 The Council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a committee or subcommittee. Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the Kirklees authority area for a period of 12 months beginning with the date of revocation.

9.0 Duration of Licence

9.1 The licence holder may request the Council in writing to cancel the licence.

9.2 In the event of the death of a licence holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for a period of 3 months from the date of his death, unless previously revoked.

9.3 Where the Council are satisfied that is necessary for the purpose of winding up the estate of the deceased licence holder, it may extend or further extend the period for which the licence remains in force.

9.4 Unless cancelled or revoked, a licence shall remain in force for one year or for a shorter period as the Council may think fit when granting it.

10.0 Waivers

10.1 The Council does not consider it would be appropriate to permit waivers from the requirement to hold a sex establishment licence, except in very exceptional circumstances considered by the Licensing Committee.

11.0 Complaints

11.1 Where possible and appropriate the Council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

12.0 Delegated Powers

12.1 All applications for new sex establishment licences will be determined by the Licensing Committee.

12.2 All renewal or variation applications for sex establishment licences will be determined by the Licensing Committee if there are objections, otherwise they will be approved by the Licensing Manager, providing the Licensing Manager is satisfied that such approval will not be inconsistent with any aspect of this policy. If the Licensing Manager is not so satisfied then the application will be referred to the Licensing Committee.

12.3 All transfer applications for sex establishment licences will be determined by the Licensing Committee if there are objections, otherwise they will be approved by the Licensing Manager.

Part B – Sex Shops

1. When is a licence for a Sex Shop required?

Licences for sex shops are required for any premises, vehicle, vessel or stall:

- a. Where there are 18R films being sold, or
- b. Used for a business which consists to a 'significant degree' of selling, hiring, exchanging, lending, displaying or demonstrating 'sex articles' or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

2. What are sex articles?

'Sex articles' are:

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

3. What constitutes a 'significant degree'?

The meaning of 'significant degree' is not expressly defined in the legislation. It is for the Licensing Authority to determine on the individual circumstances of each case presented to it whether the 'significant degree' threshold has been reached. It will involve considering a number of factors such as:

1. The ratio of sex articles to other aspects of the business
2. The absolute quantity of sales
3. The character of the remainder of the business
4. The nature of the displays in the business
5. Turnover
6. Other factors which appear to be materially relevant

4. Licence Conditions

The Council has adopted standard conditions for the operation of sex shops which are set out at Appendix C. Where it is reasonable and necessary to do so, our Licensing Committee will impose additional proportionate conditions on a licence. Wherever possible, these will be discussed in advance with operators by our licensing officers.

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Part C – Sexual Entertainment Venues

1. Relevant Entertainment

Licences for sexual entertainment venues are required for 'any premises at which relevant entertainment is provided before a live audience for financial gain of the organiser or the entertainer'. 'Relevant Entertainment' is defined in schedule 3 (as amended by section 27 of the Policing and Crime Act 2009) as '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' (either verbal or by other means). An audience can consist of one person e.g. in a private booth.

In deciding whether entertainment is 'relevant entertainment' the authority will judge each case on its merits, but will generally apply to:

1. Lap dancing
2. Pole dancing
3. Table dancing
4. Strip shows
5. Peep shows
6. Live sex shows

Adult entertainment not classed as 'relevant entertainment' may still require licensing under the Licensing Act 2003.

2. Length of Licence

We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of a year at a time to provide certainty to those operating businesses.

3. Application Form

We have a standard application form, including public notices, which are available on request from our licensing team.

4. Licence Conditions

We have adopted standard conditions for the operation of sexual entertainment venues which are set out at Appendix D. where it is reasonable and necessary to do so; our Licensing Committee will impose additional proportionate conditions on a licence. Wherever possible, these will be discussed in advance with operators by our licensing officers.

Appendix A1

Existing Licensed Sex Shops

X6 Johns Books, 322 Manchester Road, Crosland Moor, Huddersfield, HD4 5BR

X2 Darker Enterprises Ltd, 70 Bradford Road, Fartown, HD1 6JE

X1 Empire cinema Club, John William Street/Brook Street, Huddersfield, HD1 5AA

Appendix A2

Existing Licensed Premises which will require a Sexual Entertainment Venue Licence

PR (A) 0845 Cleopatra's, Lockwood Road, Folly Hall, Huddersfield, HD1 3PA

PR (A) 1375 Cleopatra's Lounge, Northumberland Street, Huddersfield, HD1 1DT

Appendix B

Refusals and Revocations of Licences

1. The Council must refuse to grant or transfer a licence to:
 - a. A person under the age of 18
 - b. A person who for the time being is disqualified from holding a licence
 - c. A person, other than a body corporate, who is not resident in the United Kingdom or who was not so resident throughout the period of six months immediately preceding the date on which the application was made.
 - d. A body corporate which is not incorporated in the United Kingdom
 - e. A person who has, within the period of 12 months immediately preceding the date on which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
2. The Council may refuse
 - a. An application for grant or renewal of a licence on one or more of the grounds shown in paragraph 3 below:
 - b. An application for transfer of a licence on either or both of the grounds shown in paragraph 3(a) and (b) below.
3. The grounds mentioned in paragraph 2 above are:
 - a. That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason:
 - b. That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself:
 - c. That the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which the Council considers appropriate for the locality
 - d. That the grant or renewal of the licence would be inappropriate having regard to:
 - (i) The character of the relevant locality (which means, in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment);
 - (ii) The use to which any premises in the vicinity are put; or
 - (iii) The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Appendix C

REGULATIONS PRESCRIBING STANDARD CONDITIONS FOR SEX SHOP LICENCES

Management of the Premises

1. The licensee, or some responsible person nominated by him and notified in writing to the Council for the purpose of managing the sex establishment ('the manager') shall have personal responsibility for and be present on the premises at all times when the premises are open to the public.
2. Where the licensee is a body corporate or an incorporated body any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
3. A copy of the licence shall at all times be displayed in a conspicuous position on the premises, so as to be available for inspection by the public, police, the fire authority, and authorised officers of the Council and local trading standards authority.
4. The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the premises is affected by the termination of a lease or other event affecting the Licensees control of the premises.
5. The licensee shall ensure that the public is not admitted to any part of the premises that has not been licensed.
6. No person under the age of 18 shall be admitted to the premises and a notice to this effect in accordance with condition 19, shall be displayed on the outside of the premises. No person under age of 18 shall be employed to work at the licensed premises.
7. Neither the licensee nor any employee or agent shall seek to obtain custom for the licensed premises outside or in the vicinity of the premises, by means of personal solicitation, flyers, hand-outs or any like thing.
8. Access must be afforded at all reasonable times to authorised officers of the Council, police and fire service.
9. The licence holder shall ensure that no part of the licensed premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.

10. The premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day or Good Friday.

Conduct of the Premises

11. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.
12. A sex shop shall be conducted primarily for the purposes of the sale of goods by retail.
13. No film or video recording or computer game shall be exhibited, sold or supplied unless it has been passed by the British Board of film Classification and bears a certificate to that effect.

External Appearance

14. The holder of a sex establishment licence shall exhibit on the outside of the premises a notice containing the words 'No person under the age of 18 allowed, people appearing to be under the age of 21 will be required to show proof of their age'.
15. No external loudspeakers will be installed.
16. Unless approved in writing by the Licensing Manager, there shall be no advertisements, notices, photographs, and illustrations, statements of any kind or similar items displayed so as to be visible from the exterior of the premises.
17. The Council shall approve the design of the front elevation of the shop which may include reference to the name of the shop, its postal address, opening hours, website address and any security grilles or shutters. The Council shall approve the final exterior signage including the shop name which shall be of an uncontentious nature.
18. The exterior and entrance to the licensed premises shall be suitably screened so as to prevent any part of the interior being visible from outside the shop.
19. There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order. Both doors shall be kept closed at all times except when being used for access or egress.
20. On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the indecent Displays (Control) Act 1981 namely:

'WARNING'

Persons passing beyond this notice will find material or activities on display which they may consider indecent. No admittance to persons under 18 years of age'

State, Condition and Layout of Premises

21. The Licensee shall maintain the licensed premises in good order, repair and state of cleanliness at all times, which will include the need to maintain the front and rear of the premises in a clean and tidy condition.
22. The licensee shall take appropriate measures to ensure that refuse and discarded sex articles or waste stock from the premises are kept secure from public accessibility pending removal from the site.
23. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
24. Lighting shall be in operation continuously during the whole of the time that the licensed premises is open to the public such lighting to be sufficient to enable persons therein to see clearly all parts of the premises and to read readily any literature or notices displayed to customers.
25. Alterations or additions either internal or external shall not be made to the licensed premises (including any facilities, lighting, construction etc., without prior written consent from Kirklees Planning where necessary and the Councils Licensing Manager. Without prejudice to the foregoing, the areas provided for ingress, egress and circulation of the public within the premises shall not be reduced, obstructed or altered without prior written consent from Kirklees Planning and the Councils Licensing Manager.
26. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
27. No fastenings of any description shall be fitted on any booth or cubicle within the sex establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any one time.

Safety and Security

28. The Licensee shall institute steps to check the age of customers entering the shop who appear to be between the ages of 18 and 21 in order to ensure that they are not younger than 18.
29. Whilst the licensed premises are in use, no door or other barrier which exists within the areas provided for ingress and circulation of the public shall be locked or bolted in any manner which prevents it being opened immediately and easily.

Goods Available in Sex Shops

30. The Licensee shall without charge display and make available in the sex shop such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations from time to time and in particular any such material related to sexually transmitted diseases. Such literature is to be displayed in a prominent position adjacent to all cash collection points in the sex shop.

Appendix D

REGULATIONS PRESCRIBING STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUE LICENCES

1. The licensee or some responsible person over the age of 18 nominated by him and notified in writing to the Council for the purpose of managing the sex establishment ('the manager'), shall have personal responsibility for and be present on the Premises at all times when the premises are open to the public.
2. Any individual employed on the premises to conduct a security activity (within the meaning of paragraph 2(1) (a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
3. The licensee must ensure that staff are employed to supervise the interior of the premises including toilets whilst the premises are open for business.
4. No person under the age of 18 shall be admitted to the premises. Customers who appear to be under the age of 21 must be asked to provide photographic proof of their age. The licensee must provide prominent notices at each entrance to the premises to this effect.
5. Performers shall be aged not less than 18 years. The licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
6. An appropriate room shall be set aside to provide a private changing and rest area for performers to which customers are not admitted.
7. The licensee shall not permit the display outside of the premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the premises.
8. The licensee shall ensure to the Councils Licensing Manager's satisfaction that the exterior of the premises is maintained to a satisfactory standard. At no point may dancers be visible from outside of the premises. Scantily clad persons must not exhibit in the entrance way or in the vicinity of the premises.
9. Performers shall only perform on the stage area, or to seated customers or in such other areas of the licensed premises as may be agreed in writing by the Councils Licensing Manager.

10. No nude performances may take place on stage at any time, a performer during any performance must at all times wear at least a G-string.
11. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the council where sexual entertainment may be provided, as at 11 above.
12. Performers must dress fully at the end of each performance.
13. Performers may not accept any telephone number, email address, address or contact information from any customer.
14. Performers must never be alone in the company of a customer except in an area open to the public within the premises.
15. The licensee is to ensure a sufficient number of security staff are employed inside and outside the premises whilst sexual entertainment is provided to supervise the performers and customers.
16. The licensee must ensure that during a performance of a table dance:
 - (i) Customers must remain seated during the entire performance of the dance
 - (ii) Performers must not approach closer than 30cms (12") to any part of a customer
 - (iii) Performers must not part their legs, sit or straddle the customer
 - (iv) Performers must not place their feet on the seats
17. The licensee must ensure that during performances of any kind to which this licence relates;
 - (i) Performers may not perform any kind of act that simulates any sexual act.
 - (ii) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party
 - (iii) Performers may not use inappropriate, suggestive or sexually graphic language at any time.
 - (iv) Performers must never perform with a another performer
 - (v) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the performer has no intention of carrying out the act
 - (vi) There is no audience participation

18. The Licensee must ensure that during performances of any kind to which this licence relates:
 - (i) Customers do not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment
 - (ii) Customers must remain appropriately clothed at all times.
19. The licensee shall ensure that CCTV is installed and maintained to the satisfaction of West Yorkshire Police, and that any images are (a) retained for a period of at least 31 days and (b) made available on request to a police officer or authorised officer of the Council.
20. The licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this licence.

DRAFT

[Year]

Kirklees Council

Kirklees Licensing
Service

[SEV Questionnaire results]

This document contains the results of questionnaire as part of the public consultation to assist the council when considering the adoption of the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in relation to the introduction of a policy relating to sex establishments, and the licensing of a new category of sex establishment called sexual entertainment venue.

Below are the questions that were asked during the consultation. Each # marker represents one response to the particular question. All additional consultation response comments are presented below in italics or at paragraph 8.

1. Which areas are NOT suitable to locate a SEV?

	Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree
Town Centre	###			##	##
A mixed use area residential/commercial	#####		#		
Busy late night economy area	####			#	##
Residential area	#####		#		
Industrial area	####		###		
Deprived area	#####		#		
Conservation area	#####	#	#		
Not acceptable in any area	###		#	#	##

Are there any other localities in Kirklees where you think it would be acceptable to licence a SEV?

- *All town centres*
- *None*
- *No x 2*
- *Out of town retail parks – however transport links, taxi support needed to make them viable.*

- *Huddersfield Civic Society – Siting a SEV would NOT be acceptable outside town centre late night entertainment areas. I.e. areas with low footfall at times of trading. We do not accept that conservation area status is relevant. Conservation areas are a planning consent matter issue for matters like advertising, signage and ac plant, which should not affect licensing.*

2. Which wards in Kirklees would NOT be an acceptable location for a SEV?

	Strongly agree	Agree	Neither Agree/Disagree	Disagree	Strongly disagree
Almondbury	#####	#	#		
Ashbrow	#####	#	#		
Batley East	####		##		
Batley West	####		##		
Birstall and Birkenshaw	####	#	#		
Cleckheaton	####		#		
Colne Valley	#####	#	#		
Crosland Moor and Netherton	#####	#	#		
Dalton	#####		#		
Denby Dale	#####	#	#		
Dewsbury East	####		##		
Dewsbury South	####		##		
Dewsbury West	####		##		
Golcar	#####	#	#		
Greenhead	#####		#		
Heckmondwike	####	#	#		
Holme Valley North	####	#	#		
Holme Valley South	#####	#	#		
Kirkburton	#####	#	#		
Lindley	####	#	#		

Liversedge and Gomersal	####	#	#		
Mirfield	#####	#	#		
Newsome	####		##		#

- *Huddersfield Civic Society – We do not see why the choice of wards should be considered at all.*

3. Should the council set a maximum number for any locality?

- Yes
- *Maximum number should be zero x 3*
- *Police - From a police point of view these establishments do not cause the problems and calls for service that we get from pubs, night clubs and massage parlours. Not sure there is a need to restrict numbers as economies would do that. However an increase would cause perception issues.*
- *Huddersfield Civic Society – No limits for any locality. The market should result in a number in town centre and late night entertainment areas.*

4. What should the numbers be in the following areas?

	0	1	2	3	4	5 or more
Town centre	###	#	#	#		#
mixed area commercial /residential	#####	#	#			
Busy late night economy area	####		#	#		#
Residential area	#####					
Industrial area	#####	#				
Deprived area	#####					
Conservation	#####		#			

area						
Not acceptable in any area	###					

5. What should the number be in each ward?

	0	1	2	3	4	5 or more
Almondbury	#####					
Ashbrow	#####					
Batley East	#####			#		
Batley West	#####			#		
Birstall and Birkenshaw	#####					
Cleckheaton	#####					
Colne Valley	#####					
Crosland Moor and Netherton	#####					
Dalton	#####					
Denby Dale	#####					
Dewsbury East	#####			#		
Dewsbury South	#####			#		
Dewsbury West	#####			#		
Golcar	#####					
Greenhead	#####			#		
Heckmondwike	#####					
Holme Valley North	#####					
Holme Valley	#####					

South						
Kirkburton	#####					
Lindley	#####					
Liversedge and Gomersal	#####					
Mirfield	#####					
Newsome	####			#	#	

- One in each ward that has a town centre
- A lot would depend on the site location; a ward is too generic a location to make an informed decision on.

Vicinity

6. Would it be acceptable to locate a SEV near to:

	Yes	No	I don't know
Residential areas		#####	
Retail shopping area	##	####	
Late night entertainment area	####	##	
Historic listed buildings		#####	#
Sports centres/facilities		#####	#
Cultural leisure facilities (libraries/museums etc.)		#####	#
Family leisure facilities (cinemas /theatres/concert halls)		#####	
Places of worship		#####	#
Public parks		#####	#
Places of education (school/college/university)		#####	#
Youth facilities		#####	#
Train/bus station	#	####	#
Hotels or other guest accommodation	#	#####	#

- **Vicinity**
- *Huddersfield Civic Society – Siting a SEV would be acceptable in town centre late night entertainment areas; areas with high footfall at the time of trading.*

7. Is there any type of building where it would be acceptable to locate a SEV near to?

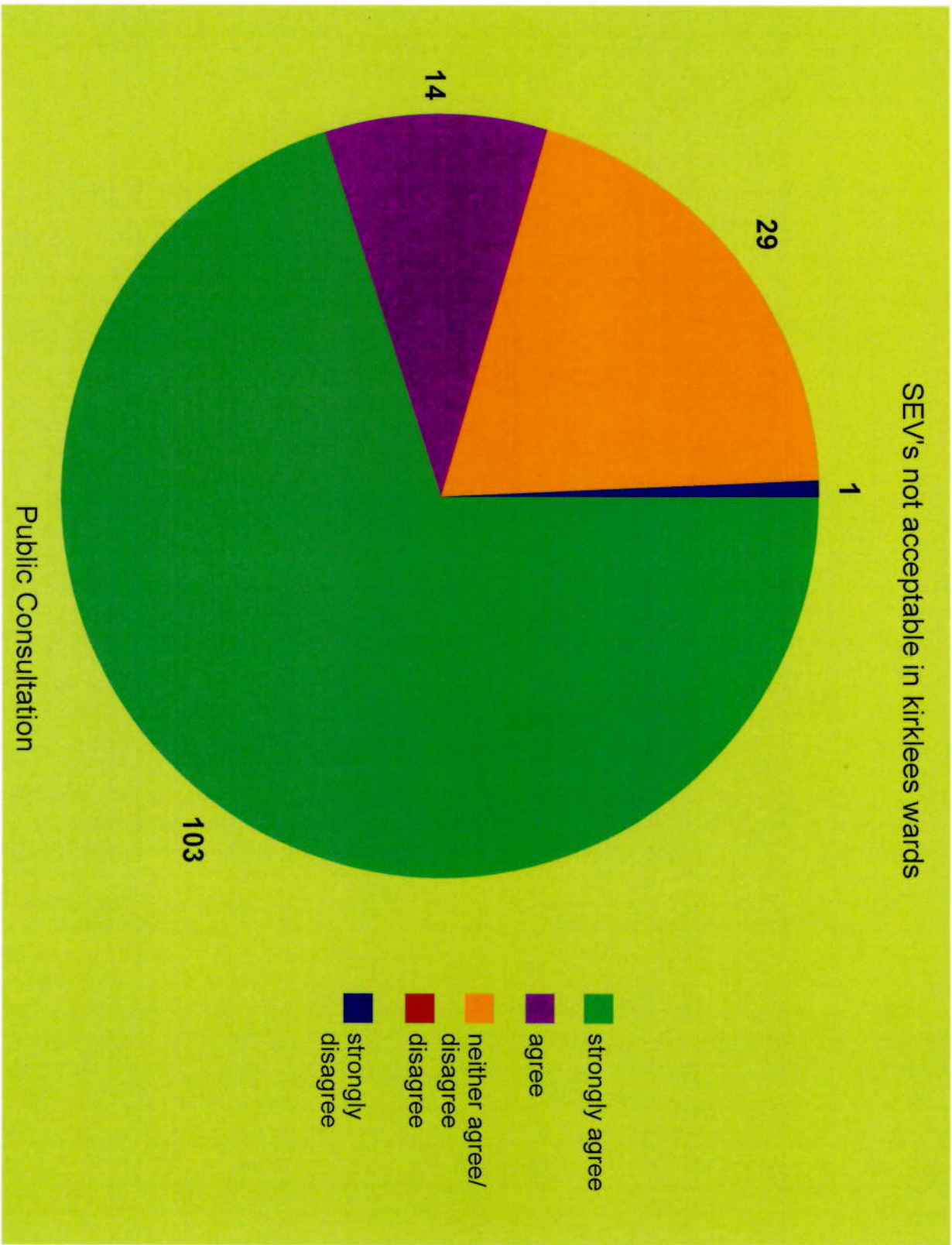
- *Public Houses*
- *None x 3*

8. Any other comments;

- *These places of entertainment should be allowed but closely regulated in all areas of operation for those who wish to go to such places. People who are vulnerable or do not like said venue should have their rights protected.*
- *I think granting a licence to these places could be a recipe for trouble and the emergency services are stretched to the limit as it is.*
- *The licensing of SEV within Kirklees, or even those potential workers, wishing to work in such a venue and potential visitors, due to safety concerns, noise, light pollution, litter pollution.*
- *I do not feel SEV's are a good idea at this time or any other time for Kirklees. As the deputy mayor of Mirfield I would detest the idea of a SEV coming to Mirfield, as well as in any other part of Kirklees. They exploit women particularly foreign women, and make them objects of lust for dirty old men and silly young men alike – the corruption of the best is the worst! I think it's a good first step to give residents a greater voice on these things coming to their respective wards.*
- *Police - What we have within the ring road is fine but I think a case could be made out for elsewhere but the wards cover such a diverse range of areas you would need to consider each application on its own merits.*

- Fire Service – Fire Service concerns relate only to the suitability of the premises involved and the appropriate management of those premises. We would support aims designed to improve the safety and protection of customers, staff and performers.
- *Town Cllr – Lap dancing clubs and other forms of adult sex entertainment which are popular in today's modern society have a place in our community for responsible adults. There are safeguards; however that have to be considered, anti-social behaviour, needles, condoms and police issues – people that are a danger to the community. To totally disregard the sex industry, as some do-gooders would have us do is not the full picture, and licensing for these venues should consider these issues.*
- I have concern about the role these establishments play in supporting or not supporting trafficking and this should be the information we are asking for.
- *Phil Hubbard, Professor of Urban Studies, School of Social Policy, Sociology and Social Research & Director of Research, Faculty of Social Services – professor Hubbard has submitted a paper titled 'Determining the appropriateness of Sexual Entertainment Venues' (please see attached at appendix C)*
- Cllr Hussain and Cllr Hall – both agree if we adopt the new section it gives us more powers to regulate.
- *Cllr Richards – supports adopting the legislation.*

SEV's not acceptable in kirklées wards



Public Consultation

Cllr Abdul Patel
Cllr Amanda Stubley
Cllr Andrew Cooper
Cllr Andrew Marchington
Cllr Andrew Palfreeman
Cllr Andrew Pinnock
Cllr Bill Armer
Cllr Cahal Burke
Cllr Cath Harris
Cllr Cathy Scott
Cllr Charles Greaves
Cllr Christine Iredale
Cllr Cliff Preest
Cllr Darren ODonovan
Cllr David Hall
Cllr David Ridgway
Cllr David Sheard
Cllr Derek Hardcastle
Cllr Donald Firth
Cllr Donna Bellamy
Cllr Edgar Holroyd-Doveton
Cllr Elaine Ward
Cllr Elizabeth Smaje
Cllr Eric Firth
Cllr Erin Hill
Cllr Graham Turner
Cllr Gwen Lowe
Cllr Hanif Mayet
Cllr Hilary Richards
Cllr James Blanchard
Cllr Jean Calvert
Cllr Jim Dodds
Cllr John Lawson
Cllr Judith Hughes
Cllr Julie Stewart –Turner
Cllr Karen Allison
Cllr Karen Rowling
Cllr Kath Pinnock
Cllr Kath Taylor
Cllr Ken Smith
Cllr Kenneth Sims
Cllr Linda Wilkinson
Cllr Lisa Holmes
Cllr Mahmood Akhtar
Cllr Mark Hemmingway
Cllr Martyn Bolt
C-llr Masood Ahmed

CLlr Mehboob Khan
CLlr Mohammed Sarwar
CLlr Mohan Sokhal
CLlr Molly Walton
CLlr Mumtaz Hussain
CLlr Naheed Mather
CLlr Nicola Turner
CLlr Nigel Patrick
CLlr Paul Kane
CLlr Peter McBride
CLlr Peter O'Neill
CLlr Phil Scott
CLlr Robert Light
CLlr RobertW Barraclough
CLlr Salim Patel
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Holmfirth Enterprise and Development

<https://www.facebook.com/HolmfirthEnterpriseDevelopment>

Kirklees Community Association <http://www.kca.co>

Kirklees Federation of small Business branchsec.kirklees@fsb.org.uk

Calderdale & Kirklees manufacturing Association www.ckma.co.uk

Housing Associations and Trusts in Kirklees Council

Johnnie Johnson Housing general.enquiries@jjhousing.co.uk

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Connect Housing corporate.service@connecthousing.org.uk

Horton Housing www.hortonhousing.co.uk

Sadeh Lok Housing customerservices@sadehlok.co.uk

Kirklees Neighbourhood housing housing@knh.org.uk

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Federation of licensed Victuallers Associations admin@flva.co.uk

Kirklees Community Safety Partnership community.partnerships@kirklees.gov.uk

Kirklees Drugs Action Team <http://www.kirklees.gov.uk/community/care-support/health/drug-action.shtml>

Environmental Health environmental.health@kirklees.gov.uk

Planning Authority planning.contactcentre@kirklees.gov.uk

Kirklees Area Child Protection Committee KSCB.Admin@kirklees.gov.uk

Weights and Measures licensing@wyjs.org.uk

Kirklees Primary Care Trust jo.hilton-jones@kirklees.gov.uk

○ **Mirfield Town Council**

- Council Offices, 198 Huddersfield Road, Mirfield, WF14 8BA
- administrator@mirfieldtowncouncil.gov.uk

○ **Denby Dale Parish Council**

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- **Holme Valley Parish Council**
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- admin@holmevalleyparishcouncil.gov.uk

- **Meltham Town Council**
- Town Hall, Meltham, Huddersfield, HD9 4AG
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- **Kirkburton Parish Council**
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- Clerk: angela.royle@kbpc.co.uk

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41 Lower Fitzwilliam Street, Huddersfield, HD1 6AS
www.loveforallhatredfornone.org or www.alislam.org

Ahmadiyya Muslim Association – Spen Valley

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Churches Together in Dewsbury

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Dawatal Islam Masjid and Madressah Talimuddin, Soothill

Dawatal Islam Masjid
West Acre Drive ,
Soothill ,
Batley ,
WF17 6PE

Faizaan-e-Madina Masjid and Dewsbury Moor Muslim Association

[Faizaan-e-Madina Madressah and Education Centre](#),
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Dewsbury Moor,
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WF13 3NJ

Hanfia Mosque and Institute (Lockwood, Huddersfield)

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Huddersfield Christian Fellowship

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Cathedral House ,
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Huddersfield Church of Jesus Christ of Latter-day Saints and Family History Library

Huddersfield Church of Jesus Christ of Latter-day Saints
12 Halifax Road ,
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Huddersfield Inter Faith Council

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Huddersfield New North Road Baptist Church

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Huddersfield Spiritualist Church

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Vajrapani Kadampa Buddhist Centre

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Cleopatra's Lounge
Mr Jason Armitage
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Huddersfield
HD1 1DT

Mr G's Gentleman's Club
Mr Martin Kevin Jones
11 – 13 Westgate
Huddersfield
HD1 1NP

Ricky's Bar
Mr Richard Park
311 Leeds Road
Huddersfield
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Plastic Ivy
33 Leeds road
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WF12 7BB

Determining the appropriateness of Sexual Entertainment Venues

A year-long study of the regulation of striptease and lap dance clubs in England and Wales by **Professor Phil Hubbard** and **Dr Rachela Colosi** has found evidence of divergent regulatory approaches. They suggest more attention needs to be paid to guiding applicants towards appropriate locations to ensure that the offence that lap dancing venues can cause is minimised

The emergence of lap dance and striptease clubs since the late 1990s has prompted significant debate, with the opening of such clubs routinely opposed by local resident and business groups as well as by those arguing such clubs represent a pernicious and damaging "sexualisation" of society. One well-documented consequence was the inclusion of new adoptive powers in the Policing and Crime Act 2009 which added the category of Sexual Entertainment Venue (SEV) to the list of sex establishments controlled by the Local Government (Miscellaneous Powers) Act 1982.

Under the terms of this legislation, any premises where a live performance or a live display of nudity is provided to an audience "solely or principally for the purposes of sexual stimulation" on more than "eleven occasions... within the period of 12 months" (section 27, schedule 2A) needs to be licensed in the same manner as a sex shop or sex cinema. Moreover, a licence may be refused simply if the local authority determines that "...the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality" (Home Office, 2010: 3.34).¹ Given the definition of a "locality" is left to the local authority, the new powers give authorities a potentially high degree of control over SEVs.

As previously documented in this journal,² the introduction of these new powers has allowed for the emergence of an uneven geography of regulation, leaving operators facing different application procedures depending on where their club is located. Indeed, our survey of 326 licensing authorities in England and Wales suggested that around

only one in ten appeared not to have adopted the new powers for regulating lap dance clubs (as of 1 September 2012). These included some rural and largely remote local authorities with no tradition of sex establishments but include some where lap dance clubs remain open (and licensed under the 2003 Licensing Act). At time of writing, these include Bolton, Charnwood, Kirklees and Norwich.

On the other hand, there are many local authorities where the new powers have been adopted where there is currently no club offering striptease or related forms of sexual entertainment on a regular basis, seemingly on a precautionary basis in case an application might be made in the future. This latter group includes some local authorities that previously had lap dancing clubs but do not have any currently (e.g. Bury, Bridgend, Cannock).

Beyond this evident variation in the adoption of the newer, and potentially more stringent, licensing regime, there are significant differences in the approaches taken by different authorities. Most state that each application will be considered on its merits, but stress there is a presumption against clubs in the vicinity of particular land-uses (e.g. shops, family housing, education facilities, transport hubs, historic districts and "areas in transition"). Yet some local authorities have gone further to suggest there are no suitable locations for new SEVs: these include Enfield, St Albans, Haringey, Harrow, Richmond on Thames, Tower Hamlets, Havant, Havering, North Tyneside, the City Corporation of London, Wellingborough, Winchester and Hackney.

The justification for the application of a "nil limit" in these local authorities varies, and where there is no existing club operating, this raises the spectre of legal challenge given it might be considered legally unreasonable to prevent lap dance occurring in the totality of a local authority area: after all, the intention of the Policing and Crime Act 2009 was

1 Home Office, *Sexual Entertainment Venues: Guidance for England and Wales*, 2010.

2 Sanders, Campbell and Hadfield, *Dancer Welfare at Sexual Entertainment Venues*, (2012) 3 JoL 4-9.

Determining the appropriateness of sexual entertainment venues

not to render striptease an illegal or criminal activity, but to provide local authorities with new powers to determine where it is appropriate in their jurisdiction.

This paper hence begins from the assumption that the adult population of England and Wales has the legally enshrined right to view sexual entertainment and sexually-charged performances, and that the role of local authority regulation should not be to presume refusal in all circumstances. Taking this as read, we are concerned with exploring how local authorities might determine the location and visibility of clubs in a way that mitigates the possibility for harm to residential populations and groups who live in the local authority boundaries. As this paper will detail, the evidence collected in our research suggests that the harms of lap dancing for the local community are more likely to be related to offence and disgust rather than physical harm or experiences of crime: while there is no question that licensing has a role to play in shaping the conduct and management of activities within the club, that is not our intention here. Rather it is to consider the evidence as to which populations and residents might be most troubled by the presence of lap dance clubs in their communities, and to think about how these might result in clear, proportionate and socially-just policies concerning the location and visibility of clubs in England and Wales.

The licensing of SEVs

As of the end of 2012, our research estimates there were 241 licenced premises offering striptease or similar entertainment on more than 11 occasions per year. Of these, 198 had an SEV licence and 38 operated under the Licensing Act 2003. Initial analysis suggests that the widespread assumption that SEVs are lap dancing clubs marketed at a mainly male clientele holds true, but this should not distract from the fact that some other types of venue where nudity is performed for an audience have also sought, and obtained, a SEV licence: this includes six gay clubs, two burlesque/variety venues, one sex-on-premises encounter and a "swinging" venue.

The limited number of licences granted to such venues immediately raises the question as to why some clubs and venues where nudity designed to sexually stimulate an audience is regularly performed (including some that even describe themselves as adult sexual entertainment venues!) are not being noted by the local authority, whereas lap dancing and "gentlemen's clubs" rarely escape scrutiny, with specific clubs being named in the committee discussions which deliberated on the value of adopting the new powers.³

However, the preoccupation with regulating lap dancing clubs is understandable given it was the emergence of such clubs in often-prominent city and town centre locations that has prompted campaigns of opposition both at the local and national level. This said, of those clubs licensed as SEVs since the introduction of the provisions of the 2009

Policing and Crime Act, 43% received no official objections at time of licence determination. In fact, the vast majority (over 70%) receive only one or two objections, and only around one in ten applications receives upwards of 30 objections. This suggests that public opposition is uneven, with a relatively small number of clubs (mainly new venues) attracting most opposition.

Where venues are opposed, the range and scope of objections varies widely, with the unsuitability of clubs in particular locations being emphasised through representations which suggest clubs may lower the tone of areas, attract unsavoury characters, add to existing problems of anti-sociality and have potentially negative consequences for women and children in particular. Where clubs are not already operating, such objections are of course conjectural, and based on stereotypes about the type of clientele venues might attract, and the kind of nuisances that might be generated. Significantly, where clubs are operating, little evidence has been presented by objectors about criminality or disorder around clubs, with the majority of representations talking about the generation of anxiety for local residents.

The idea that venues contribute to the fear of crime is of course important in the context of community safety, especially in situations where some women claim that the presence of a club makes it hard for them to feel safe in the city at night. But whether this type of position is based on a moral objection to lap dancing as a gendered form of entertainment is difficult to determine. Evidentially, it is hard for licensing authorities to distinguish between legitimate and illegitimate grounds for licence refusal, as moral objections are supposedly inadmissible under the guidance provided by the Home Office.⁴ For example, in alleging that a lap dance club might be unsuitable in a location previously occupied by another licensed premises (e.g. a club or pub) it appears difficult to imagine that questions of morality would not infuse an objection, with the character of SEVs and their potential impacts on a community projected on the basis of the entertainment they provide. For instance, the suggestion that an SEV might attract "unsavoury characters" rests on the assumption that an SEV provides a form of entertainment that appeals to a particular type of audience. The idea that those whose sexual standards do not reflect those of the "moral majority" will also fail to respect other norms of behavior is then a judgement that could be dismissed as morally infused, and hence illegitimate, by those determining SEV applications. This noted, judgements of the size and character of the clientele a venue is likely to attract provides legitimate grounds for refusing a licence in a given locality.⁵

To date, 17 SEV applications have been refused: *Saints & Sinners* and *The Pad* (Bedford); *Lounge@30* (Bristol); *Baby Blue*, *Panache* and *Angels* (Leicester) (the latter having been granted a licence subsequent to initial refusal); *Dazzle* (Ealing); *Piano Bar* (Twickenham, Richmond); *Pandoras* (South Bucks); *Kiss* (Newquay); *Shades* (Warwick) (refused twice); *Max 2* (Lambeth); *Thirst Lodge* (Oxford) (refused once, not renewed once) and *Tantric Blue & 87*

3 In December 2012 the London Borough of Lambeth heard applications for and granted SEV licences to the majority of its gay venues that offered performance, nudity and 'sex-on-premises' encounter facilities – Editor.

4 Home Office, 2010: 3.23; see also *R v Newcastle upon Tyne City Council ex parte The Christian Institute* [2001] BLGR 165.

5 See Kolvin, P. (2010) *Sex Licensing*, London, Institute of Licensing.

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Bank Street (Maidstone). Overall, there is no statistical relationship between the number of objections made and the likelihood of licence refusal. Interestingly, some clubs with large numbers of public objections, and some where police representations were made urging refusal, have been granted licences.

The fact that the discretion granted to local authorities to refuse a licence is considerable, and that only one of the refusals has gone to judicial review thus far, means that there is little case law in this area that helps us understand what considerations are given particular weight in licensing deliberations. In most cases of rejection, local authorities merely state that the granting of the licence would be inappropriate having regard to the nature of the locality and/or the uses to which buildings in the vicinity are put. Further justification or elaboration as to why a particular locality is not suitable is often lacking, and the vexed question of what the relevant locality is left undefined.

On occasion, reference is made to family housing areas or proximity of schools and other facilities, yet the potential harms or nuisances that might be created by the presence of a lap dance club are left unstated. For example, it might be questioned why it is inappropriate to allow a lap dance club on a street leading to a school if the opening hours are set so that those of school age are not around on the street at the time this club might be open. Conversely, it could be questioned why a club might be permitted near to family housing or accommodation if it opens late (e.g. after midnight) given a family home is, presumably, always a family home and does not stop being so at certain hours.

Clearly, the question of what the harms of lap dancing are, and how these might be minimised, are ones that licensing officers, and councillors, are spending much time grappling with, often without any reputable academic evidence or case law to draw upon. This means that decisions are made with reference to "common sense" knowledge. For example, the idea that lap dance clubs are unsuitable near schools appears to be a social convention that is never questioned: the idea that children might be psychologically disturbed or morally corrupted by seeing lap dance clubs in their communities is not proven, but appears widely-enough shared that ensuring some sort of buffer between schools and SEVs seems sensible.

How wide that buffer is appears to be a matter for local determination based on particular consideration of the prominence and visibility of clubs, albeit some local authorities have already determined that some wards are not suitable for clubs irrespective of how far away clubs might be from educational facilities or premises habitually used by children (without any consideration as to whether a ward is homogeneous in character or the varied nature of the uses to which premises might be put across a ward).

While we are not disputing here that "common sense" knowledge might provide the basis for making licensing decisions, there is of course the possibility that these are grounded in misconceptions and myths that would not bear legal scrutiny (or at least might be considered morally infused). It is our contention that policy in this area – as in any area of licensing – would benefit from being *evidence-based*.

Researching attitudes to SEVs in England and Wales

As noted above, while there has been some attention given to dancers' welfare within clubs, there has been no peer-reviewed research on the impacts of lap dancing clubs on the communities in which they are located. The purpose of our Economic and Social Research Council-sponsored research was therefore to explore how local authorities can best achieve the broader aims of licensing - i.e. maximising public safety, minimising public nuisance, and reducing crime and disorder – in relation to SEVs. More widely, the aim was to explore whether any generalisations can be made about where clubs may be appropriate or inappropriate.

To examine local resident perceptions of SEVs, we examined four case study locations which possessed different numbers of SEVs and had different traditions of night-life. These included an expanding market town, a small city boasting a university, a large tourist resort with a substantial tradition of stag and hen tourism, and a regional capital boasting a very vibrant and vital night time economy. In each of these case study locations, we aimed to explore the ways that the presence of SEVs changed people's experience of the night-time city, paying particular attention to questions of gender. Although all of the towns had venues such as gay saunas, swingers' sex-on-premises venues and massage parlours that could be considered to be requiring SEV licensing, all of the currently licensed clubs considered in our study were lap dancing or gentlemen's clubs providing female dancers and performances aimed principally at heterosexual men.

To explore residents' attitudes to these venues, a combination of online and paper surveys were administered, with the project being advertised through the local press in the four locations, which are nonetheless anonymised here. This survey was ultimately completed by 941 adult respondents recruited from the four case study locations (any responses from those living outside the local authority areas in question were ignored). Of the respondents, 68% were female; 40% had children under 18 living in their household; 48% lived in a home that was owned or mortgaged; 87% described themselves as white British or white English; 61% claimed no religion; 46% were aged 25-39 but only 13 respondents (1.4%) were over 65. This means our survey may not be representative of national views, and that certain groups may be under-represented despite efforts to ensure the survey did not just solicit the views of those who hold strong anti- or pro- views towards lap dancing venues, noting that those who are more ambivalent are fairly unlikely to respond to local licensing applications for SEVs.

From the survey, 46 respondents were recruited for evening walk-along events which were audio-taped and photographed. Respondents were asked to speak about their feelings about different parts of the town, with routes chosen to ensure some SEVs would be visible. Semantic rating scales were used to explore their feelings about different locations. The walk-along events were mixed gender, and included participants from a variety of age groups, again intended to be broadly representative of adult users of the night-time economy.

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Key findings

Initial questions on the night-time economy explored perceptions of nuisance, and asked respondents to name particular premises that they felt caused nuisance in their local neighborhood and town centre respectively. One in five respondents identified a venue in their town that they thought caused particular nuisance: 65% of these were pubs or clubs, 20% take-aways or off-licences and 15% SEVs. This implies only around 3% of our respondents felt that an SEV was a source of particular nuisance in their town or city, a figure that might still be considered as significant given the relatively small number of lap dance venues in our case study towns. Interestingly, our survey found that 22% of respondents who lived in towns with one or more SEVs present were unaware of these premises. One in four of those who were aware of such premises had visited a lap dance venue: of the rest, most had become aware of a venue by seeing it on the street rather than reading about it in the media.

In terms of premises causing particular nuisance, lap dance clubs were identified as causing antisocial behavior, crime and noise problems, albeit that pubs were more frequently associated with the latter. In a more general sense, when asked about the impacts known SEVs were having on their local town, one quarter felt that these reduced safety, one third that these increased anti-sociality but the majority (75%) felt their presence was lowering the tone. Conversely, few cited negative impacts on property price, littering, noise or parking as significant impacts of any SEVs (contrary to some of the views given in relation to pubs and take-ways, which were more frequently identified as problem premises). Those who have children in their home appear significantly more likely to describe existing SEVs as a source of nuisance than those without.

Overall, we found some significant divergence in attitudes to SEVs in our different case study areas which were not directly related to the number of clubs present but appeared to be more shaped by the location and visibility of clubs, particularly in areas where other "problem" venues might be present (e.g. other licensed venues with reputations for anti-social behavior). Here, cited anti-sociality was primarily in the form of loud, drunken behavior (including public urination and petty vandalism), rather than sexual harassment or abusive behavior. In this sense, SEVs were seen to be exacerbating behavior which has become routinized in some spaces of night-life, and which cumulative area policies are often keen to discourage. The idea that SEVs lower the tone of particular areas appeared significant in many of our respondents' minds in identifying them as playing a role in attracting a certain "class" of clientele.

In terms of the general suitability of SEVs in different locations, 83% of our respondents thought SEVs unsuitable near schools or nurseries, 46% near universities/colleges, 65% near religious facilities, and 45% near shops. Only 3% think SEVs are suitable in residential areas, 10% in rural areas, and 15% in industrial areas, though the majority (55%) feel town centres are suitable. Around one in ten claim there are no suitable locations for SEVs at all. This group is most likely to regard SEVs as promoting sexism, and least likely to regard it as harmless entertainment. This

group is also most likely to report avoiding walking past SEVs at night. However, this group does not have an over-representation of people with children in the household, even though this was the population most likely to report nuisance from SEVs.

The implication here is that SEVs are not regarded as a significant source of nuisance by the majority, but that a significant minority feel such clubs are inappropriate because they promote sexism, crime and encourage antisocial behavior. This group appears to harbor concerns that SEVs might encourage and normalise particularly negative attitudes towards women. Perceptions of SEVs therefore appear to be strongly shaped by gender, though men living with children in their household, and those over 40, also appear significantly more likely to be opposed to lap dance venues. Religion, sexuality and ethnicity appear to make no significant difference to attitudes to SEVs. Interestingly, those who had a lap dancing club within a 400m radius appeared no more likely to object to their presence, or note nuisance, than those living further away.

Overall, it should be noted that around one in three of our respondents claimed to feel reasonably unsafe or very unsafe walking in the city at night. This group was significantly more likely to say there were too many SEVs in their town than those who felt safe, and more likely than any other group to say they would avoid walking past a lap dance club at night. Women were significantly over-represented in this group, suggesting the presence of SEVs in the night-time city may have gendered effects. This was explored in our guided walks, which suggested women were more likely to note, and comment on, the presence of SEVs in their local towns than men. Here, unease about SEVs appeared more related to questions of class, morality and disgust than fear, with SEVs' contribution to antisocial behavior and rowdy behavior deemed marginal, and sometimes insignificant, compared with some other venues. Notably, SEVs that had discreet signage, were well-kept and did not overtly sexualize the public realm appeared least likely to provoke unease among participants in our walk-along events, who often spoke of their concerns about the impact of advertising on children.

Implications for licensing policy

The results of our survey and walk-along events are not consistent and at times appear contradictory, but some important messages emerge:

- The majority of people do not identify SEVs as a particular source of concern, and most consider them acceptable in town and city centres, but not in residential, industrial or rural areas. The fact that proximity to schools was seen to be an issue by the majority lends support for considering the way that clubs are located relative to facilities to children (even if there is no evidence that such clubs do cause harm to children, the concern that children should be sheltered from the sight of sex businesses was commonly supported). This implies a presumption to licensing approval in town and city centres, and refusal elsewhere, unless there are concerns about the proximity of schools whose pupils might routinely

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- Opposition to SEVs appears mainly based on perceptions that clubs normalise sexism and promote anti-social behavior rather than any direct experience of crime. None of those claiming that SEVs cause antisocial behavior or criminality provided specific examples that suggest these venues were particularly problematic relative to other venues, albeit that there were concerns that lap dance clubs can lower the tone of certain areas of nightlife, and contribute to a general ambience that creates fear for some – especially women, who were the most likely group to argue for fewer lap dance clubs in their local town or city.

This implies that SEVs are not to be encouraged in areas that have existing reputations for anti-sociality and drunkenness, even if these clubs do not necessarily exacerbate these problems. This might cause problems where particular areas of town or city centres are "saturated" with licensed premises given the nuisance that many of our respondents associated with pubs, clubs and take-aways. The implication here is that the town and city centre should not always be considered as a single locality for SEV licensing purposes given the perceived differences in the character of particular streets and areas noted by our respondents, especially in the context of larger towns and cities.

- This stated, not all clubs are perceived to have similar impacts on their locality. Some clubs are judged to be better managed and less likely to be lowering the tone, primarily on the basis of their external appearance. Signage or club names that implied sexual connotations were more likely to attract comments and anxiety, while blacked out windows appeared to arouse suspicion and lend some clubs a "sleazy appearance". This implies some role for licensing conditions in terms of changing the ways that clubs are visible in the landscape, noting that clubs that are less obviously SEVs are least likely to be viewed as problematic. Those viewed as "sexualising" the street are most likely to cause offence, and create fear among those already fearful of the city at night.

Conclusions

Our research suggests the majority of the population is not especially concerned about lap dance clubs in their local town or city, albeit most do regard them as problematic in residential areas or near schools, and consider that they can lower the tone of the areas in which they are located. There is, however, a significant minority – around one in ten – that considers SEVs to have no place in a civilized society, and the licensing process needs to take their views seriously given the importance of gender equity and equality and given this group mainly consists of women.

Rather than supporting a blanket ban on the basis of the objections of a minority, our interpretation suggests that licensing needs to proceed in favour of approval but must pay serious attention to lessening the offence caused to a minority by ensuring that clubs are not intimidating in appearance (noting most people first become aware of lap dancing clubs in their city by seeing them on their streets), and are restricted to locations where they cannot be accused of corrupting or influencing young people. Beyond this, it would appear that the mandatory conditions of holding an SEV licence, and withdrawing licences from clubs which are found to generate any criminality, might be sufficient for ensuring SEVs remain well run venues which have a place in our town and city centres, even if some object to them on moral grounds. Ultimately, just because some sections of society find SEVs distasteful or offensive does not provide a basis for banning them, but this does imply a need to ensure that clubs do not negatively impinge on the lives of those who want to avoid them. Certainly, until SEV licensing is able to recognise objections based on moral grounds (i.e. the idea striptease is distasteful or disgusting), any presumption towards automatic licence refusal certainly appears unreasonable given the tastes of a minority should not be allowed to dominate decisions made on behalf of the public as a whole.

Professor Phil Hubbard, University of Kent, and Dr Rachela Colosi, Lincoln University

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Institute of Licensing *Books*



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