

LICENSING COMMITTEE
30 January 2013 at 6.00 pm
Conference Room, Argyle Road, Sevenoaks

AGENDA

Membership:

Chairman: Cllr. Pett

Cllrs. Abraham, Mrs. Ayres, Ayres, Clark, Cooke, Davison, Mrs. Dawson, Fittock, Orridge,
Mrs. Parkin, Piper, Raikes and Walshe and one vacancy

	<u>Pages</u>	<u>Contact</u>
Apologies for absence		
1. Minutes Minutes of the meetings of the Committee held on 10 October 2012 and of the Sub-Committees held 12 November 2012, 10 December 2012 and 14 January 2013	(Pages 1 - 14)	
2. Declarations of interest Any interests not already registered		
3. Actions from the previous meeting None		
4. Licensing of Sex Shops, Sex Cinemas and Sexual Entertainment Venues Policy	(Pages 15 - 44)	Claire Perry Tel: 01732 227325
5. Gambling Act 2005 – Fees for 2013/14	(Pages 45 - 50)	Claire Perry Tel: 01732 227325
6. Hackney Carriage And Private Hire Licensing - License Fees 2013/14	(Pages 51 - 56)	Claire Perry Tel: 01732 227325

EXEMPT ITEMS

(At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.)

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Director or Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

The Democratic Services Team (01732 227241)

LICENSING COMMITTEE

Minutes of the meeting held on 10 October 2012 commencing at 6.00 pm

Present: Cllr. Pett (Chairman)

Cllrs. Abraham, Mrs. Ayres, Ayres, Clark, Cooke, Davison, Fittock, Orridge,
Mrs. Parkin, Piper, Raikes and Walshe

11. Minutes

Resolved: That the minutes of the Licensing Committee held on 6 September 2012 be approved and signed by the Chairman as a correct record.

12. Declarations of interest

No declarations of interest were made.

13. Actions from the previous meeting

There were no actions from the previous meeting.

14. Revised Statement of Principles for Gambling Act 2005 Policy

The Chairman drew Members' attention to the updated list of consultation responses which had been tabled.

The Licensing Partnership Manager reminded the Committee that the Council was legally obliged to renew the Gambling Act 2005 Policy every 3 years. The proposed changes to the Policy had already been sent out for consultation. Few amendments to the Policy were proposed but Officers had in particular tried to anticipate the guidance expected from the Gambling Commission in late October or early November 2012. It was felt it would be inappropriate to wait until the guidance had been published as this would provide insufficient time to approve and publish an updated Policy by the deadline of 7 January 2013.

Officers considered that the policy had worked well in practice. The District only had 7 betting premises but these had been found to be well regulated and caused few concerns. Those running the premises demonstrated good knowledge of challenging customers' ages and practices for customers to exclude themselves. Since the Gambling Act 2005 had been introduced the District had lost 2 but gained 1 new betting premises.

The Chairman believed the Policy had been shown to be fit for purpose so far. He thanked Cllr. Fittock for his helpful response to the consultation.

Resolved: That the policy be recommended for adoption by Full Council.

15. Licensing of Sex Shops, Sex Cinemas and Sexual Entertainment Venues Policy

At its meeting on 6 September 2012 the Committee had agreed to adopt further powers to regulate Sexual Entertainment Venues. The Licensing Partnership Manager clarified that the Council had not previously had a policy for Sex Shops, Sex Cinemas and Sexual

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Licensing Committee - Wednesday, 10 October 2012

Entertainment Venues, that there were no such venues in the District and that she was not aware that any applications for a licence were forthcoming. However it would be appropriate to adopt a policy before any application for a licence was made. The Policy would be sent for consultation before approval.

The list of consultees for the Policy would be similar to those for the Gambling Act 2005 Policy. Officers would also consult those who responded to the initial consultation on adopting further powers to regulate Sexual Entertainment Venues and Officers would also take into account the request, made in comments to the Gambling Act 2005 Policy, that the list of consultees should be extended.

Members advised Officers that, during the consultation, they should make it clear to the public which types of venue which would be regulated under the Policy and which could not.

In response to a question, the Licensing Partnership Manager pointed out that although Members could not refuse on moral grounds to put such a venue, for example, next to a church Members may still consider that the application should be refused on grounds such as that the proposal would not be in keeping with the character of the locality.

It was confirmed that the process for considering an application for a licence was likely to be similar to the process for considering an application made under the Licensing Act 2003. However these delegations would need to be considered separately and the details would be finalised at a later meeting.

Resolved: To agree that consultation be held on the policy.

THE MEETING WAS CONCLUDED AT 6.17 pm

Chairman

LICENSING HEARING

Minutes of the meeting of the Licensing Hearing
held on 12 November 2012 commencing at 10.45 a.m.

Present: Cllrs. Piper, Raikes and Walshe

Also present: Cllr. Mrs. Parkin - Objector
Mrs. J. Bolton - Licensing Officer
Mr. L. Roberts - Legal Adviser
Ms V. Etheridge - Democratic Services Officer

1. Appointment of Chairman

Resolved: That Cllr. Walshe be appointed Chairman of the meeting.

2. Declarations of Interest.

No new declarations of interest were made.

3. Eureka! (UK) Ltd, Manor Lane, Fawkham, Longfield, Kent DA3 8ND

The meeting began fifteen minutes later than scheduled to allow time for the applicant to attend. The Chairman thanked everyone for waiting. The Chairman addressed those present and proposed that in the absence of the applicant and with limited information to be able to give due consideration of the application in their absence, the meeting be adjourned for another date as soon as practically possible. This would provide the applicants with a further opportunity to attend, and allow sufficient time to request further information.

It was therefore unanimously,

Resolved: That the meeting be adjourned.

THE MEETING WAS CONCLUDED AT 10.48 am

Chairman

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LICENSING HEARING

Minutes of the meeting of the Licensing Hearing
held on 10 December 2012 commencing at 10.30 am

Present: Cllrs. Piper, Raikes and Walshe (Chairman)

Also present:	Mr. M. Davis	-	Applicant
	Mr. G. White	-	Applicant
	SDC Cllr. Mrs. Parkin	-	Objector
	Parish Cllr. Moss	-	Objector
	Mrs. J. Bolton	-	Licensing Officer
	Mr. L. Roberts	-	Legal Adviser
	Ms V. Etheridge	-	Democratic Services Officer

4. Declarations of Interest.

There were no declarations of interest.

5. Eureka! (Uk) Ltd, Manor Lane, Fawkham, Longfield, Kent DA3 8ND

The Hearing gave consideration to a report by the Community and Planning Services Director giving details of an application under the Licensing Act 2003 for a premises licence at Eureka! (UK) Ltd Manor Lane, Fawkham, Longfield, Kent DA3 8ND. It was noted that objections had been received and that accordingly the application had been referred to the Sub-Committee for determination.

The Hearing heard from the applicant that he had spoken to the objector immediately prior to the meeting and felt that discussion between the parties could have avoided the hearing. There had previously been a meeting arranged with the Parish Council but he had unfortunately been in hospital and had missed it. Pending today the Parish Council had declined another meeting until the outcome of the hearing. He explained many of the complaints arose from a one off day event that he would not hold again. He disputed claims of noise nuisance stating that it was impossible to hear the music from outside the clubhouse. He was a responsible owner who took pride in looking after his clientele and being a good neighbour. He would be very happy to hold regular meetings with the Parish Council.

In response to questions from the Sub committee the applicant replied that the only real change since it opened in 1974 was management. It also used to be a family club but had been changed to over 18s only for evening parties. He responded to questions concerning memberships and capacity. It was not a night club but gatherings of like minded people. He kept the boundary patrolled and secure but could not help the odd person wandering off, he in turn had helped other people who had wandered onto his land by mistake. In response to questions from the objectors he advised that there was no evidence of drug use in the club house or cabins. He did not see the introduction of the cabins as a change of use of the site but as a natural progression as members had slept in the club house before

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The Hearing heard from the objectors who stated that the site had been there a long time but more recently activities appeared to be having more of a significant and detrimental impact on neighbouring residents. Residents did not like complaining.

In response to questions from the Sub committee the objectors advised that residents were generally conditioned to noise due to the proximity of the M20 and Brands Hatch.

At 11.55 a.m. the Hearing Members, withdrew to consider the issues raised. The Council's Legal Advisor was available to give advice as required to the members and Clerk attended to note the decision.

At 12.25 p.m. the Hearing Members, Council's Legal Advisor and Clerk returned to the Council Chamber.

The Chairman informed the Hearing that the Sub-Committee had had regard to the representations made by the Applicant and interested parties as well as the guidance issued under s 183 of the Licensing Act 2003 and the Council's Statement of Licensing policy.

It was therefore unanimously,

Resolved: That a Premises Licence in respect of Eureka! (UK) Ltd Manor Lane, Fawkham, Longfield, Kent DA3 8ND, subject to the conditions contained in the licence attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 12.27 pm

Chairman

Notice of determination for application premises licence

To: EUREKA! (UK) LTD

Of: MANOR LANE, FAWKHAM, LONGFIELD, KENT. DA3 8ND

Ref: 12/03197/LAPRE

Sevenoaks District Council being the licensing authority, on the 14 September 2012 received an application for a premises licence in respect of premises known as Eureka! (UK) Ltd Manor Lane, Fawkham, Longfield, Kent DA3 8ND.

On the 10 December 2012 there being valid representations which were received had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

To grant the Premises Licence:

Section F	To allow recorded music indoors on Wednesday from 20:00 until 00:00 hours, on Friday from 20:00 until 02:00 hours and on Saturday from 20:00 until 03:00 hours.
On Christmas Eve, New Year's Eve, Halloween and Valentines Day from 20:00 until 03:00 hours the following day or until 04:00 hours if it falls on a Saturday.	
Section G	To allow performances of dance indoors on Wednesday from 20:00 until 00:00 hours, on Friday from 20:00 until 02:00 hours and on Saturday from 20:00 until 03:00 hours.
On Christmas Eve, New Year's Eve, Halloween and Valentines Day from 20:00 until 03:00 hours the following day or until 04:00 hours if it falls on a Saturday.	
Section H	To allow anything of a similar description to that falling within (e), (f) or (g) indoors on Wednesday from 20:00 until 00:00 hours, on Friday from 20:00 until 02:00 hours and on Saturday from 20:00 until 03:00 hours.
On Christmas Eve, New Year's Eve, Halloween and Valentines Day from 20:00 until 03:00 hours the following day or until 04:00 hours if it falls on a Saturday.	
On Christmas Eve, New Year's Eve, Halloween and Valentines Day from 20:00 until 03:00 hours the following day or until 04:00 hours if it falls on a Saturday.	
Section L	To allow late night refreshment indoors on Wednesday from 23:00 until 00:00 hours, on Friday from 23:00 until 02:00 hours and on Saturday from 23:00 until 03:00 hours.
On Christmas Eve, New Year's Eve, Halloween and Valentines Day from 23:00 until 03:00 hours the following day or until 04:00 hours if it falls on a Saturday.	

Section O	Hours premises are open to the public in the Summer on Sunday, Monday, Tuesday and Thursday from 10:00 until 22:00 hours, in the Winter on Sunday, Monday, Tuesday and Thursday from 10:00 until 19:00 hours. All year round on Wednesday from 10:00 until 00:00 hours, on Friday from 10:00 until 02:00 hours and on Saturday from 10:00 until 03:00 hours.
On Christmas Eve, New Year's Eve, Halloween and Valentines Day from 10:00 until 03:00 hours the following day or until 04:00 hours if it falls on a Saturday.	

The applicant intends to take the following action in order to promote the four licensing objectives if the proposed application is granted:

General

Members only club (over 21), CCTV in operation

The Prevention of Crime and Disorder

Paladin Security (SIA registered), No alcohol sold on site, Zero tolerance on drugs

Public Safety

Marked fire exits, CCTV, Fire extinguishers

The Prevention of Public Nuisance

All music inside, Nearest residential property approximately 1km away

The Protection of Children from Harm

No children allowed (over 21)

To add the following condition on the Licence, in the interests of the prevention of public nuisance as follows:

That the Applicant provide the opportunity for a properly minuted liaison meeting with the Parish Council, to meet a minimum of four times a year, and deal with complaints and concerns or potential complaints and concerns.

Mandatory Conditions:

Door supervision

Any premises which includes a condition that door supervisors must be at the premises to carry out a security activity, shall ensure that each such person is licensed to conduct such activities by the Security Industry Authority.

This licence granted at the Hearing is effective from the 10 December 2012.

Dated: 10 December 2012).

Signed

Chair – Licensing Hearing

Signed

Designation – Licensing Officer

Please address any communications to:

Licensing Regime
Community and Planning Services
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

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LICENSING HEARING

Minutes of the meeting of the Licensing Hearing
held on 14 January 2013 commencing at 10.30 am

Present: Cllrs. Mrs. Parkin, Pett and Walshe

Also present	Mr. N. Mehan	-	Applicant
	Mr. R. Baker	-	Applicant's Agent
	Mr. C. Hook	-	Applicant's Solicitor Advocate
	Mr. J. S. Minhas	-	Representative of Objector
	Mr. M. Davitt	-	Objector
	Mr. J. S. Hayer	-	Objector
	Mrs. L. Leeds	-	Licensing Officer
	Mr. L. Roberts	-	Legal Adviser
	Ms V. Etheridge	-	Democratic Services Officer

1. APPOINTMENT OF CHAIRMAN

Resolved: That Cllr. Pett be appointed Chairman of the meeting.

2. DECLARATIONS OF INTEREST.

There were no declarations of interest.

3. SWANLEY SERVICE STATION, LONDON ROAD, SWANLEY, KENT BR8 7HB

The Hearing gave consideration to a report by the Community and Planning Services Director giving details of an application under the Licensing Act 2003 for a premises licence at Swanley Service Station, London Road, Swanley Kent BR8 7HB. It was noted that objections had been received and that accordingly the application had been referred to the Sub-Committee for determination.

The Hearing heard from the applicant's solicitor advocate who referred all to the detailed application and report. He advised that Mr. Mehan would be the designated premises supervisor and had held a personal licence for three years with experience at other sites. The site already had a refusal book system for the sale of tobacco products and the sale of fuel was also already restricted so there was already a strong regulatory regime. The concern of the objectors whilst understood was not a valid consideration under the licensing objectives. The key authorities such as the Police had not raised any objections, and the Fire Authority already had regulatory oversight of the site.

In response to questions from the Sub committee the applicant replied that there were four CCTV cameras within the shop, and more outside on the forecourt. He produced a map of the premises which was shown to all present at the hearing, to show where the alcohol would be displayed for sale.

The Hearing heard from two of the objectors present. One of the objectors was a representative of a local corner shop which also sold alcohol. The owner was concerned that his business would not survive the competition of a larger retailer with an ability to sell alcohol at more discounted rates. He also expressed concern as to children's safety and invitation to commit crime, and the dangers of encouraging drinking and driving.

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Licensing Hearing - Monday, 14 January 2013

Another objector who worked at the shop objected to the hours applied for, as the newsagents were only allowed to sell alcohol from 0800 hours.

A Member of the Sub Committee advised that the newsagents were within their right to apply for a variation to their licence.

In response to the points made the applicant's solicitor advocate advised that the hours applied for were in line with the opening hours, that the alcohol sold was bought via the standard wholesale network and as a convenience store it was more likely to sell at premium prices. Four of the staff were familiar with the area and the question of children hanging around was one for management of the premises. With reference to drinking and driving, most people drove to and from large supermarkets and purchased alcohol. He also advised that the shop doors had electronically operated shunt locks. In response to a further question from the Sub Committee, the applicant advised that all staff had undergone Challenge 25 training and that there was a designated premises supervisor from another garage that would cover when he was away.

At 11.12 a.m. the Hearing Members, withdrew to consider the issues raised. The Council's Legal Advisor was available to give advice as required to the Members and the Clerk attended to note the decision.

At 11.28 a.m. the Hearing Members, Council's Legal Advisor and Clerk returned to the Council Chamber.

The Chairman informed the Hearing that the Sub-Committee had had regard to the representations made by the Applicant and interested parties as well as the guidance issued under s 183 of the Licensing Act 2003 and the Council's Statement of Licensing policy. That whilst there was sympathy for the position of the newsagents, commercial considerations were not matters that the law allowed the Licensing Sub Committee to consider. The matter of 'fair play' in terms of licensing hours was for them to resolve and apply for a variation to their current licence. The concerns raised about young people congregating around the business was one for the management to deal with. If there was evidence that there was any activity which lead to a breach of any of the licensing objectives, then these would need to be brought to the attention of the licensing regime who would call for a review of the license where appropriate. The integrity of the objectors was not doubted. However the thrust of the Licensing Act was one of permissiveness but checks and balances were in place to ensure that order prevailed. There was therefore no valid reason the premises license should not be granted on the terms for which it had been applied, and it was therefore unanimously,

Resolved: That a Premises Licence in respect of Swanley Service Station, London Road, Swanley Kent BR8 7HB, subject to the conditions contained in the licence attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 11.30 am

Chairman

LICENSING ACT 2003 – Section 23

Notice of determination for application premises licence

To: HIGHWAY STOPS RETAIL LTD

Of: SWANLEY SERVICE STATION, LONDON ROAD SWANLEY KENT BR8 7HB

Ref: 12/04074/LAPRE

Sevenoaks District Council being the licensing authority, on the 16 November 2013 received an application for a premises licence in respect of premises known as Swanley Service Station, London Road Swanley Kent BR8 7HB.

On the 14 January 2013 there being valid representations which were received had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

To grant the Premises Licence:

Section M	To allow sale of alcohol every day from 06:00 hours until 23:00 hours
Section O	Hours premises are open to the public every day 06:00 hours until 23:00 hours

Mandatory Conditions:

The supply of alcohol

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

This licence granted at the Hearing is effective from the 14 January 2013

Agenda Annex

Dated: 14 January 2013

Signed

Chair – Licensing Hearing

Signed

Designation – Licensing Officer

Please address any communications to:

Licensing Regime
Community and Planning Services
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

**LICENSING OF SEX SHOPS, SEX CINEMAS AND SEXUAL ENTERTAINMENT VENUES
POLICY**

Licensing Committee – 30 January 2013

Report of the: Deputy Chief Executive and Director of Community and Planning Services

Also to be considered by: Full Council – 19 February 2013

Status: For Recommendation to Full Council

EXECUTIVE SUMMARY: Currently sex shops and sex cinemas require a licence from the Council. The Policing and Crime Act 2009 introduced new powers for local authorities to regulate sexual entertainment venues (e.g. table dancing, lap dancing or similar activities) so as to require any such premises to apply for a licence.

It was formally resolved on 6 September 2012 that Sevenoaks District Council would adopt powers relating to sexual entertainment venues, following changes to the regulation of Sexual Entertainment Venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Consultation with local people and businesses has been undertaken and the end date for their views and comments was 11 January 2013.

Attached with this report is the summary of the feedback Sevenoaks District Council has received as part of the recent consultation (Appendix A). This is for Members to consider including in the final policy. (Appendix B)

This report supports the Key Aim of Safe and Caring Communities and Dynamic and Sustainable Economy

Portfolio Holder Cllr Mrs. Bracken

Head of Service Head of Environmental and Operational Services – Mr. Richard Wilson

Recommendation: It be RESOLVED that the consultation responses be noted and the policy be recommended for adoption by Full Council.

Background

Activities covered by the new provisions

1. A sexual entertainment venue is described as ‘any premises at which relevant entertainment is provided before a live audience for financial gain of the organiser

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or the entertainer'. It is expected that this definition would apply to the following forms of entertainment – lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

2. Licences granted for sexual entertainment venues will be renewable annually, rather than lasting for the life of the business as is the case under the Licensing Act 2003.
3. Furthermore, the authority will have a wider discretion when imposing conditions on a licence and may apply different conditions for different types of venues. For example, it will be possible to regulate opening times, the display of advertisements and the visibility of the interior of the premises to passers-by.
4. Premises providing other licensable activities in addition to sexual entertainment will still also require a premises licence under the Licensing Act 2003. In practical terms, this means that most sexual entertainment venues will require a licence under the 2003 Act as well as a sex establishment licence.

Exemptions

5. Premises which provide regulated entertainment on an infrequent basis i.e. on no more than 11 occasions within a 12 month period (subject to there being at least one month between events, and each event lasting no longer than 24 hours) will not need to be licensed as a sexual entertainment venue and will instead continue to be licensed under the Licensing Act 2003.

Key Implications

Financial

6. The Council's budget for the licensing of Sexual Entertainment Venues is set on a cost recovery basis and the cost of this consultation is covered with the licensing administration budget. It has been agreed to keep the application and renewal fee for applications at £2,300.

Legal, Human Rights etc.

7. Decisions in relation to a licence are likely to amount to consideration of civil rights and obligations with the result that Article 6 (1) of the Human Rights Act 1998 is engaged.

Equalities implication and Community Impact

8. The policy applies to all operators across the Sevenoaks District whose activities may fall under the definition of 'relevant entertainment'. The policy will aim to prevent any adverse impact on disadvantaged groups.

Sources of Information:

Local government (Miscellaneous Provisions) Act 1976.

Licensing Act 2003

Contact Officer(s):

Claire Perry Ext. 7235

Jessica Bolton Ext. 7480

**KRISTEN PATERSON
DEPUTY CHIEF EXECUTIVE & COMMUNITY
AND PLANNING SERVICES DIRECTOR**

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Sevenoaks District Council

Feedback from the Policy in respect of the Licensing of Sex Shops, Sex Cinemas and Sexual Entertainment Venues

Contact and name	Comment	Comment from Officers	Include in final version for full Council	Amendments made and date	Decision / accept changes Y/N
Annie Sargent - EH	<p>From: Annie Sargent Sent: 16 May 2012 19:57 To: Jessica Bolton Subject: FW: Licensing of Sexual Entertainment Venues Consultation</p> <p>Jessica I have read this and it all seems fair and reasonable. No comment to make. Regards Annie</p>	No comment			
Revd Anne Clements West Kingsdown Baptist	<p>From: Anne Clements Sent: 28 May 2012 10:19 To: Licensing Subject: Sexual Encounter Venues</p> <p>Dear Sevenoaks District Council,</p> <p>Re. Sexual Encounter Venues</p> <p>I and my congregation would like to support the adoption of the new provisions by the Council. Yours,</p> <p>Revd Anne Clements West Kingsdown Baptist</p>	No comment			
James Oakley The Vicarage, High Street, Kemsing	<p>From: James Oakley Sent: 06 June 2012 17:37 To: Licensing Subject: Licensing of Sexual Entertainment Venues Consultation</p> <p>I have read the consultation document regarding the possibility of Sevenoaks District Council adopting the provisions under the Policing and Crime Act (2009). I understand that, if the Council were to adopt these powers, venues wishing to be used as "sexual entertainment venues" would need to obtain a specific license for this purpose, and that this allows the Authority to consider additional factors. Those factors would not be able to be considered under the Licensing Act (2003).</p>	Whilst Officers understand the desire to set a nil number on establishments within the District, it is felt that it is more advisable to treat each application on its individual merits at the time of the application. The Council is less likely to be subject to legal challenge by having this approach.			

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Contact and name	Comment	Comment from Officers	Include in final version for full Council	Amendments made and date	Decision / accept changes Y/N
	<p>My comment would be that this would be an excellent decision for the Council to take. It seems to me that the nature of venues providing sexual entertainment are too specialised for the Licensing Act of 2003. It is absolutely essential that the Council is able to take into consideration the proximity of local schools, the density of such venues in any smaller locality so as to avoid creating neighbourhoods renowned for such venues, and the impact that any venue would have on the character of its immediate vicinity. Furthermore, the Council should be able to set a ceiling on the number of sexual entertainment venues for the District as a whole, so that the character of the Sevenoaks area can remain what the local residents would wish it to be.</p> <p>I would therefore urge the District Council, as it considers adopting these powers, to do so.</p> <p>Please do not hesitate to get in touch if you would like any clarification or further information.</p> <p>With best wishes James Oakley The Vicarage, High Street, Kemsing,</p>				
<p>Helen Gilder Assistant Clerk to the Council Hartley Parish Council</p>	<p>From: Hartley Parish Council Sent: 14 June 2012 09:42 To: Licensing Subject: Licensing of Sexual Entertainment Venues Consultation</p> <p>Hartley Parish Council would like to comment on the above consultation as follows:</p> <p>Hartley Parish Council supports the District Council's adoption of the new provisions relating to the licensing of sexual entertainment venues.</p> <p>Regards Helen Gilder Assistant Clerk to the Council Hartley Parish Council The Parish Council Office</p>	<p>No comment</p>			

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Contact and name	Comment	Comment from Officers	Include in final version for full Council	Amendments made and date	Decision / accept changes Y/N
Barbara Morris Clerk, Crockenhill Parish Council	<p>From: crockenhill parish council Sent: 21 June 2012 11:31 To: Jessica Bolton Subject: Re: Licensing of Sexual Entertainment Venues Consultation</p> <p>Dear Jessica Councillors have asked me to reply by saying they support the new proposals and believe they are an improvement and will give more control to their regulation. Barbara Morris Clerk, Crockenhill Parish Council</p>	No comment			
Holly Ivaldi Clerk Eynsford Parish Council	<p>From: Eynsford Parish Council Sent: 29 June 2012 09:36 To: Licensing Subject: Licensing of Sexual Entertainment Venues Consultation</p> <p>In response to the above consultation, Eynsford Parish Council supports the changes proposed to the legislation.</p> <p>Yours Holly Ivaldi Clerk</p>	No comment			
Yolanda Tredoux (Mrs.) Clerk to Kemsing Parish Council	<p>From: Yolanda Tredoux Sent: 10 July 2012 09:58 To: Licensing Subject: Licensing of Sexual Entertainment Venues Consultation</p> <p>Thank you for the opportunity to comment on the above application.</p> <p>KEMSING PARISH COUNCIL supports Sevenoaks District Council's proposal to adopt the new powers under the Policing and Crime Act 2009 in order to regulate sexual entertainment venues.</p> <p>Yours sincerely, Yolanda Tredoux (Mrs.)</p>	No comment			

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Contact and name	Comment	Comment from Officers	Include in final version for full Council	Amendments made and date	Decision / accept changes Y/N
<p>Veronica Todd PCC Secretary St Mary's Church, Riverhead</p>	<p>The Sevenoaks District Council Consultation Document re Licensing of Sexual Entertainment Venues has been sent to me from the Churches Together in Sevenoaks group.</p> <p>The document was discussed at our PCC meeting in May and it was agreed that I should write to inform you that St Mary's Riverhead PCC believe it to be preferable for sexual entertainment venues to require a sex establishment licence in addition to a licence under the 2003 Act. The PCC of St Mary's Church, Riverhead, therefore agree that Sevenoaks District Council should adopt powers relating to sexual entertainment venues, following changes to legislation.</p> <p>Yours faithfully</p> <p>Veronica Todd PCC Secretary St Mary's Church, Riverhead</p>	<p>No comment</p>			
<p>Kaye Bill Senior Customer Service Advisor Sevenoaks District Council</p>	<p>From: Kaye Bill Sent: 21 November 2012 11:10 To: Jessica Bolton Subject: RE: Consultation on the Policy in respect of the Licensing of Sex Shops, Sex Cinemas and Sexual Entertainment Venues</p> <p>I strongly object to the Consultation Policy in respect of the above, please see my objections below.</p> <ul style="list-style-type: none"> <input type="checkbox"/> People can access all of the above on the internet. <input type="checkbox"/> These venues will become a magnet for sexual predators. <input type="checkbox"/> How will these premises be Policed? <input type="checkbox"/> Girls can make themselves look much older than they really are and could potentially be high risk and vulnerable. <p>Regards Kaye Bill</p>	<p>The premises, should a licence be granted, will be visited on a risk assessed basis in line with the Enforcement Policy and the other enforcement visits carried out by this authority.</p>			

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Contact and name	Comment	Comment from Officers	Include in final version for full Council	Amendments made and date	Decision / accept changes Y/N
Hugh D'Alton Planning Committee Clerk Sevenoaks Town Council	<p>From: Sevenoaks Town Council Planning Sent: 05 December 2012 15:07 To: Licensing Subject: Consultation on policy in respect of the licensing of Sex Shops, Sex cinemas, and sexual entertainment venues</p> <p>Please could it be noted that following a Planning Committee on the 26th November Sevenoaks Town Council wishes to formally support the District Council's intention to adopt the new powers in relation to the licensing of sexual entertainment venues granted in the policing and crime act 2009</p> <p>Kind regards Hugh D'Alton</p>	No comment			
Mrs J A Shelley Fox and Hounds Knatts Valley	We do not want this anywhere!	No comment			
Ken Grist	Ok	No comment			
Jill Davison SDC	Reasons for refusal 12.10, 12.11 and 12.12 will not leave many places where these activities will be welcome in the District!	Each application will still be looked at on its merits.			
Gillian Kingscott Clerk to Halstead Parish Council	Council has no comments or observations to make.	No comment			
Ben Thomas Penshurst Place Estate	I have no comment to make.	No comment			
Cllr Brian Ramsay	Agreed. Proposed age limit increase to 25 unnecessary and pointless in view of existing legislation relating to sexual relations, marriage etc.	No comment			
Cllr Mark Fittock	<p>9.1 Notices As the coverage of local newspapers is extremely patchy and sales are ever decreasing, some minimum standards should be set below which alternative methods of advertising should be used e.g. the web. The same limitation applies to "free papers" which are not universally delivered and often do not cover local news.</p>	There is a proposal being considered by the Home Office to remove the requirement for the advertisement of notices in local newspapers for the Licensing Act 2003. Officers would prefer not to be more prescriptive at the present time pending the outcome of the Home Office's deliberations.			

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Contact and name	Comment	Comment from Officers	Include in final version for full Council	Amendments made and date	Decision / accept changes Y/N
Cllr J Scholey	The definitions section does not appear to exclude premises and articles used for medical or public health purposes e.g. text books, medical journals, sexually transmitted disease clinics. Are they excluded somewhere else?	Under definitions 5.1 of the policy a sex article is anything made for use in connection with or for the purposes of stimulating or encouraging sexual activity or acts or force or restraint which are associated with sexual activity. Texts books, medical journals and clinics are for educational purposes rather than encouraging/stimulating sexual activity. Officers would not expect articles or premises used for medical or public health purposes to fall within this definition.			
Probus Sevenoaks	We do not have a policy on this question and it is not feasible to manage the differing views of our 220 members.	Consultation was open to all businesses, clubs and members of the public so members who wished to comment would have had the opportunity to do so.			
Edenbridge Town Council	Edenbridge Town Council supports the policy approach taken by SDC and accepts the grounds for refusal, particularly the restriction on location and the wide range of conditions that can be applied.	No comment			

Policy in respect of the Licensing of Sex Shops, Sex Cinemas and Sexual Entertainment Venues

1. Overview

- The Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009) provides that a local authority may, by resolution, adopt schedule 3 of that Act.
- 1.2 Sevenoaks District Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the amendment under Section 27 of the Policing and Crime Act 2009.
- 1.3 The adoption of schedule 3 as amended will enable the licensing authority, within its area, to discharge its function in relation to the following:
 - sexual entertainment venues (providing relevant entertainment)
 - sex shops
 - sex cinemas
- 1.4 Schedule 7 to the Policing and Crime Act 2009 amends the Licensing Act 2003 to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982) do not also require a premises licence, club premises certificate or temporary event notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the Licensing Act 2003. However, if the premises also carries on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment) then this is not a provision of relevant entertainment and they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the Licensing Act 2003 for those other activities, subject to any exceptions contained in that Act.
- 1.5 In practice this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 1.6 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition

- of regulated entertainment in the Licensing Act 2003. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance nor will providing entertainment facilities for the purposes of the provisions of relevant entertainment be regulated entertainment under the Licensing Act 2003.
- 1.7 If a local authority has not made a resolution to adopt the provisions introduced by section 27, Policing and Crime Act 2009 within one year of the Act coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution. The purpose of this duty is to ensure that local authorities consider the views of local people whether, for whatever reason, they have not adopted the provisions. This duty should be seen to be an extension to existing general duties on local authorities to consult and involve local people when exercising their functions.
- 1.8 The Licensing Authority have also taken into consideration the provisions of Section 17 Crime and Disorder Act 1998 that requires responsible authorities to consider crime and disorder (including antisocial behaviour and other behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances in the exercise of all their duties, activities and decision-making. This means that in all policies, strategies and service delivery there is a need to consider the likely impact on crime and disorder.
- 1.9 The Licensing Authority is also aware that, at the time of formulating this policy, there is no evidence of any crime or disorder directly attributable to the operation of such establishments in the Sevenoaks area.
- 1.10 This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement which is in compliance with:
 - a) The Regulator’s Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede progress by the regulations we set out and, particularly, to consider the impact of regulations on small businesses; and
 - b) The Provisions of Services Regulations 2009 to ensure requirements are:
 - i) Non-discriminatory
 - ii) justified by an overriding reason relating to the public interest
 - iii) proportionate to that public interest objective

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- iv) clear and unambiguous
- v) objective
- vi) made public in advance
- vii) transparent and accessible

1.11 In certain instances we may conclude that a provision in the policy is either not relevant or is outweighed by other provisions. We will ensure that any decision to depart from the policy will be properly reasoned, based on material evidence and documented; giving clear and compelling reasons for doing so.

1.12 The Council sees the licensing process as an integral part of its approach to achieving its strategic and corporate objectives. The following three core values will guide and define our policies for the District and the local area:

- Fairness
- Integrity
- Quality

These three Core Values develop the Vision with the resulting five promises:

- 1, We will provide value for money
- 2, We will work in partnership to keep the District of Sevenoaks safe
- 3, We will continue to collect rubbish efficiently and effectively
- 4, We will protect the Green Belt
- 5, We will support and develop the local economy.

2. Policy

2.1 The purpose of this policy is to:

- Set out the expectations of the local authority in meeting the requirements of the legislation
- Provide guidance on the process for making an application and the process the Council will follow in considering and determining an application.
- Assist any persons making representations in respect of an application to make properly directed and evidenced representations.

2.2 Notwithstanding this policy, each application will be assessed on its individual merit and granted or refused purely on that merit. Whilst this policy will set out the broad scope of expectations, it should not be seen as restricting or predetermining the outcome of any application or representation in respect of the licensing of any premises.

3. Functions

3.1 Under section 101 of the Local Government Act 1972, local authorities may arrange for

the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.

3.2 This authority delegates its functions to those who sit on its Licensing Committee, or a sub-committee appointed for the purpose, with the exception of a renewal of a licence to which no objections are received, which will be delegated to officers as set out in the Council's constitution.

4. Consultations

4.1 The Policing and Crime Act 2009 is not prescriptive about how local authorities should consult with local people in order to comply with this duty. The Council has extensive experience of engaging with local people and will utilise that knowledge to ensure that any consultation exercise carried out under this duty will be fair and meaningful. The Council will seek to make any relevant information available to local people in order to inform them of the legislation, criteria and outcomes of the consultation.

4.2 For the purpose of this duty 'local people' are defined as anyone who lives or works in the local authority area.

4.3 The council will seek to consult with all those consulted on the Licensing Act 2003. A full list of those consulted is attached at Appendix C.

5. Definitions

5.1 For the purposes of this policy the following definitions will apply:

5.2 Sex Shop

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating

- a) sex articles; or
- b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:
 - i) sexual activity; or
 - ii) acts of force or restraint which are associated with sexual activity.

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

5.3 Sex Article

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

- a) sexual activity; or
- b) acts of force or restraint which are associated

with sexual activity; and anything to which sub-paragraph below applies.

This sub-paragraph applies

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

5.4. Sex Cinema

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which

- a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage
 - i) sexual activity; or
 - ii) acts of force or restraint which are associated with sexual activity; or
- b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.

No premises shall be treated as a sex cinema by reason only

- a) if they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of Section 136 of that Act), of their use in accordance with that authorisation.
- a) of their use for an exhibition to which section 6 of that Act (certain noncommercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

5.5. Sexual Entertainment Venue:

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

Exemptions from being a Sexual Entertainment Venue

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The following are not sexual entertainment venues for the purposes of this policy:

- a) sex cinemas and sex shops;
- b) premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time
 - i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - ii) no such occasion has lasted for more than 24 hours; and
 - iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in subparagraph (i));
- c) premises specified or described in an order made by the relevant national authority.

5.6. Relevant entertainment:

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).

Home Office Guidance states relevant entertainment would therefore apply to the following forms of entertainment, as they are commonly understood:

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

However this list is not exhaustive and local authorities will judge each case on its merits. Decisions will be based on the content of the entertainment provided and not the name given to it.

5.7 Nudity

Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

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5.8 Spontaneous Entertainment

Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser might be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

5.9 The 'Organiser'

Any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer to someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.

The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

6. Planning

- 6.1 The Licensing Authority will not normally undertake action where another, more appropriate, regime exists to resolve matters. Failure to obtain planning permission is not a ground for refusal of the grant of an application under the Local Government (Miscellaneous Provisions) Act 1982 and such a failure to obtain planning permission will normally be dealt with as part of the normal planning process.
- 6.2 Operators and persons making representations should be aware that in many cases there would be a need to obtain planning permission before a premises may be used for the purposes relevant to this policy. The Licensing Authority will not normally consider planning matters such

as 'need' in determining a licence application as this is more appropriately dealt with by planning legislation.

- 6.3 Applicants are advised to seek independent advice in relation to both planning and licensing prior to making any application under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

7. European Convention on Human Rights

- 7.1 The Local Authority fully supports the European Convention on Human Rights. When determining applications for licences under this policy the Licensing Authority will give consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) which entitles every person to the peaceful enjoyment of their possessions and Article 10 (freedom of expression).
- 7.2 The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.
- 7.3 Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right of freedom of expression to participate in the activities of sex shops, sex cinemas and sexual entertainment venues is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

8. The Application Process

- 8.1 Applications for licences for sex shops, sex cinemas and sex entertainment venues must be made on the prescribed form and accompanied by the requisite fee.
- 8.2 A site plan of radius of ¼ of a mile (scale 1:500) clearly outlining the locality in which the proposed sexual entertainment venue will be situated. The plan should clearly identify the proposed sexual entertainment venue marking the site/premises boundary with a red line and define other types of businesses and residential properties around the site as listed at 12.11.
- 8.3 A plan of the premises (scale 1:100) showing the part(s) of the premises that it is proposed to licence as a sexual entertainment venue. All areas requiring to be licensed should be outlined in red on the plan. If a part of the

premises is within a licensed premises under the Licensing Act 2003 which will have a dual purpose then the plan should show the site where facilities for the public are shared such as toilets and bar.

- 8.4 The plan of the premises must show the position of all CCTV cameras and shall be with the approval of Kent Police and in accordance with the CCTV code of practice.
- 8.5 Plans may be considered in other scales with prior agreement with the licensing authority.
- 8.6 The council will not usually determine an application for the grant of a licence, unless, the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the premises.

9. Notices

- 9.1 Applicants for a sexual establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than seven days after the date the application is made.
- 9.2 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 days beginning with the date the application was made.
- 9.3 All notices should be in the form prescribed by the appropriate authority as detailed in Appendix B and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.
- 9.4 The applicant is required to submit a copy of any application to the Chief Officer of Police for the area within seven days of submitting the original application to the local authority. The requirement does not apply in the case of electronic applications as it is the duty of the local authority to send a copy to the police.

10. Objections

- 10.1 Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12, of Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 for refusing a licence. Objections should not be based on moral grounds/values and local authorities cannot consider objections that are not relevant to the grounds set out in paragraph

12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

- 10.2 When considering an application for the grant, renewal or transfer of a licence the Licensing Authority will have regard to any observations submitted to it by the Chief Officer of Police and any objections that they have received from anyone else, (including statutory agencies such as Kent Fire and Rescue Service, UK Border Agency, The Local Safeguarding Children’s Board) within 28 days of the application.
- 10.3 Where the Licensing Authority receives notice of any objection the authority will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority will not without the consent of the person making the objection reveal their name or address to the applicant.

11. Hearings

- 11.1 Under paragraph 10(19) of Schedule 3, before refusing an application, renewal or application to transfer a licence all applicants will be given the opportunity to appear before and be heard by the Licensing Committee or Sub-Committee that is responsible for determining the application.
- 11.2 Whilst Schedule 3 does not make explicit provision for objectors to be heard, this Council believes it is right to offer an oral hearing to objectors. This does however remain within their discretionary powers. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.
- 11.3 Persons making written objections will also be informed of the date and time of the licensing sub-committee hearing where they will be invited to address the committee and ask questions relating to the application.
- 11.4 All objectors and applicants are reminded that they can if they wish be legally represented at their own expense at the hearing. Alternatively, they may, if they wish ask a Councillor to represent them.
- 11.5 In determining an application the Licensing Committee (or Sub-Committee) will consider the applicant’s presentation, the Council’s authorised officer report, police observations and objections.
- 11.6 All parties may use witnesses and supporting documentation however, copies of documents

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and details of witnesses must be submitted to the Licensing Committee (or Sub-Committee) for consideration prior to the hearing and in special circumstances with approval of all parties at the hearing.

- 11.7 The Licensing Committee (or Sub-Committee) will consider all the evidence presented to it during the hearing and members may ask questions of officers, applicants and objectors. After the evidence has been presented, all parties will be asked to leave to allow for the Licensing Committee (or Sub-Committee) to come to a decision on the application.
- 11.8 When a decision is reached the Licensing Committee (or Sub-Committee) will inform the applicant and relevant parties of their decision and the reasons for coming to that particular decision.
- 11.9 The decision of the Licensing Committee (or Sub-Committee) will be confirmed, in writing, to the applicant within seven working days of the meeting at which the application was considered giving reasons for the decision.

12. Refusal of a Licence

- 12.1 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence must not be granted:
- a) to a person under the age of 18;
 - b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
 - c) to a person, other than a body corporate, who is not resident in an European Economic Area (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 a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
- 12.2 A licence may be refused where:
- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

- 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 made the application himself;
- c) 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;
- 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.

12.3 A decision to refuse a licence must be relevant to one or more of the above grounds.

12.4 In making any determination to refuse an application, renewal or transfer, the local authority will give consideration to:

a. Suitability of the applicant

In determining the suitability or otherwise of an applicant the local authority will consider any previous convictions and in particular those that have been imposed in respect of offences involving violence, dishonesty, drugs, offences of a sexual nature or a breach of the requirements of the legislation covering the type of establishment in respect of which the application is made.

Any other reasonable cause, arising from:

- previous knowledge and experience of the applicant
- any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area
- any report about the applicant and management of the premises received from objectors

b. Business carried out on behalf of a person who would be refused

The local authority takes a serious view of any application that seeks to subvert the underlying principles of the Act. Where it is considered that the applicant is effectively operating the business on behalf of a person who would, for whatever reason, be refused or disqualified from

the grant of a licence due to the mandatory or discretionary grounds for refusal there will be a presumption towards refusal unless overwhelming reasons are accepted for the contrary decision to be made.

c. The application exceeds the limit set on the number of the specific type of sex establishments generally or of a specific type in an area

d. Appropriateness having regard to character of locality, use of premises in the vicinity or layout, character or condition of premises

The local authority may refuse applications on grounds related to an assessment of the relevant locality. A licence can be refused if either, at the time the application is determined the number of sex establishments or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality the use to which any premises in the vicinity are put or the layout, character or condition of the premises.

12.5 Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 does not define 'relevant locality' further than to say that:

- In relation to premises, it is the locality where they are situated
- In relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

12.6 Once the Council has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality. The Council may consider a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

12.7 Case law has indicated however that in defining the relevant locality the local authority should not seek to specify wide areas.

12.8 Although a ward area could be considered as a relevant locality it is determined that certain wards are substantial in size and would cover a wide area. It could also raise a problem with borders of other wards where there could be a cluster of sex establishments.

12.9 The Licensing Authority has determined not to set specific relevant localities in respect of each type of sex establishment, instead judging each

application it receives on its own individual merits and the character of the locality at the time of the decision.

In determining the relevant locality each case will be decided on its merit having consideration to the individual circumstances of the application.

12.10 In licensing of sex entertainment venues the Licensing Authority will consider the impact of such premises and their operation on the character of an area. This would include but not be limited to:

- The type of location (residential, commercial, industrial)
- The likely effects of any increased footfall or vehicular traffic
- Any advertising or displays of an erotic or pseudo-erotic nature
- Localities where the cumulative impact of the venue, taken with other licensed premises or commercial interests, is likely to have an adverse effect on crime and disorder and public nuisance
- Any evidence of complaints about noise and/or disturbance caused by the premises
- The levels of crime and disorder in the area.

12.11 The Local Authority would consider use of other premises in the vicinity which would include but not be limited to:

- Establishments whose patrons are likely to be adversely affected by the operation of the premises
- The proximity of residential premises, including any sheltered housing and accommodation for vulnerable people
- The proximity of educational establishments to the premises
- The proximity of places of worship to the premises
- Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises
- The proximity to shopping centres
- The proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
- The proximity to conservation areas, historic buildings and tourist attractions
- The proximity of other sex establishments

12.12 When considering an application for the grant, renewal, variation or transfer of a licence the Council will also take into account the layout,

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character or condition of the premises including but not limited to the following

- The type of activity to which the application relates
- The duration of the proposed licence
- The days and hours of operation of the activity.
- Suitability of management systems to take into account the safety of its performers, customers and staff.

12.13 Visibility to passers by on retail thoroughfares or pedestrian routes. In more sensitive locations applicants should consider whether it would be appropriate to locate such premises at basement level or locate entrances away from retail thoroughfares or busy pedestrian routes.

13. Waivers

- 13.1 The amendments to Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 allow for the Licensing Authority to waive the need for a sex entertainment venue licence under certain circumstances.
- 13.2 An applicant can apply for a waiver either as part of the application for a licence or separately. The Local Authority can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days notice.
- 13.3 The Licensing Authority will consider applications for such waiving of the need for licences on an individual basis. However, it is felt that unless clear and unambiguous evidence can be produced to support such a waiving of licence, the default position will be that a licence will be required.

14. Conditions

- 14.1 The Local Government (Miscellaneous Provisions) Act 1982 allows the Licensing Authority to attach both standard and specific conditions to a licence. The Licensing Authority has set out standard conditions (APPENDIX A) in respect of each type of licensed premises for which conditions may be taken and provided a pool of conditions. However, this list is not exhaustive and is merely to give an indication of what may be considered necessary for any individual licence.
- 14.2 The standard conditions will be placed on

the particular type of establishment and others may be applied only where a perceived necessity exists and in a manner that is both proportionate and reasonable to promote a safe and well managed premises. Each case will be dealt with on its individual merit.

14.3 Whilst conditions may be prescribed on any matter it is likely that the following considerations will attract the attachment of conditions:

- Hours of opening and closing
- Visibility of the interior of the premises
- Displays of advertisements
- Any change to the type of premises
- Minimum distance between audience and performers
- The control of access to changing room facilities
- The control of private viewings

14.4 The authority may specify other conditions specific to individual premises dependant on the type of activity undertaken. Such condition may not be listed in the pool of conditions.

15. Duration of Licences

15.1 Licences for sex establishments will be granted for up to one year.

16. Appeals

- 16.1 The Local Government (Miscellaneous Provisions) Act 1982, paragraph 27 permits appeals against the decision of the Council in relation to sexual entertainment venues. Appeals will be heard in the first instance by the Magistrates Court. An appeal must be made within 21 days of the decision of the Licensing Committee (Sub-Committee) to the Magistrates Court.
- 16.2 An appeal can be made in the following circumstances:
- Refusal of an application for grant, renewal or transfer of a licence
 - Refusal of an application to vary terms, conditions or restrictions on or subject to which any licence is held
 - A grievance relating to any term, condition or restriction on or subject to which a licence is held
 - Revocation of a licence
- 16.3 There is no right of appeal for objectors.
- 16.4 There is no right of appeal against refusal on the ground that there are sufficient sex establishments in the locality or that to grant

would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.

- 16.5 A person wishing to appeal against the council decision is strongly advised to seek assistance from a solicitor.

Appendix A

SEVENOAKS DISTRICT COUNCIL

STANDARD TERMS, CONDITIONS & RESTRICTIONS RELATING TO SEX ESTABLISHMENTS

These regulations apply to the licences for sex establishments granted, renewed or transferred by the Council under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Definitions

In these regulations, save where the context otherwise requires, the following expressions shall have the following meanings:-

- i) "Sex Establishments", "Sex Cinema", "Sex Shop", "Sex Article", "Sexual Entertainment Venues" and "relevant entertainment and nudity" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) 1982 as amended.
- ii) "Premises" means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of building, which is subject of a licence for a sex establishment granted under the Third Schedule.
- iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
- iv) "Approved" means approved by the Council in writing.
- v) "The Council" means Sevenoaks District Council.
- vi) "Film" shall have the meaning ascribed to it in the Films Act 1985

General

The following terms, conditions and restrictions are applicable to sex establishment licences. In the event of a conflict between these and any special conditions contained in a licence relating to a sex establishment the special condition shall apply.

The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any other enactment by law or regulation other than the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982 as amended.

Sex Shops

Times of Opening

Condition 1

Except with the previous consent of the Council the premises shall not open to the public before 9.00am and shall not be kept open after 6.00pm

Except with the previous consent of the Council, the sex establishment shall not open on Sundays or any other Bank Holidays or any Public Holidays.

A notice displaying the times when the premises are open or closed shall be displayed on the entrance to the premises in a form and manner approved by the Council.

Conduct and Management of Premises

Condition 2

Where the Licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager, are to be furnished within 14 days of a request in writing from the Council.

Condition 3

The Licensee or some responsible person nominated by him in writing for the purpose of managing a sex establishment in his absence and who's details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Condition 4

The holder of the licence shall keep exhibited in a suitable place within the shop premises, so that it can be easily seen by premises users, a copy of the licence and any conditions and regulations made and they shall be readily available for inspection by any of the following officers:-

- a) Duly authorised officer of Sevenoaks District Council
- b) Police Officer, and
- c) Officer of the Fire Authority

Condition 5

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

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Condition 6

The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.

Condition 7

The Licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.

Condition 8

No person under the age of 18 shall be permitted entry to the premises or be employed in the business of sex establishments.

Condition 9

The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

Condition 10

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

Condition 11

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

Condition 12

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating his name and that he is an employee.

Condition 13

No refreshment of any kind shall be provided nor any consumed on the licensed premises other than for any bona fide staff in a part of the premises not open to the public.

Use of the Premises

Condition 14

The sex shop shall be conducted primarily for the purpose of the sale of goods for retail and change of use of any portion of the premises from that licensed by the Council, shall not be made until the consent of the Council has been obtained thereto.

Condition 15

No change from a sex cinema or sexual entertainment venue to a sex shop or from a sex shop to a sex cinema or sexual entertainment venue shall be effected

without the consent of the Council and neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be sold, hired, exchanged, loaned or demonstrated in a sex cinema or sexual entertainment venue.

Goods available in sex establishments

Condition 16

All sex articles and other things displayed for sale, hire, exchange or loan within the sex shop, shall be clearly marked to be shown to the persons who are inside the sex shop, the respective charge being charged.

Condition 17

All printed matter for sale, hire, exchange or loan shall be available for inspection prior to purchase, and a notice to this effect is to be prominently displayed within the sex establishment.

Condition 18

No film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film so certified.

- a) The screen of any equipment used should be no more than 12 inches and placed in such a position so as not to be visible to the public outside the premises.
- b) The screen shall be placed in such a position approved by the Council.
- c) Only clips for advertising purposes shall be shown and no individual clip shall be shown for longer than three minutes.
- d) No film will be shown in its entirety.
- e) Films will not be shown at the customer's request.
- f) All trailers shown are to be approved by the British Board of Film Classification
- g) A warning notice will be placed on the screen stating "For staff use only" or "No customers allowed to operate".

External Appearances

Condition 19

No advertisement, words, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any other matter or thing (whether illuminated or not) shall be exhibited so as to be visible from the outside of the premises except:- (i) Any notice of a size and in the form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a

licence by a Council.

Such display, advertisement, word, letter, model, sign, placard, notice, device, representation, drawing, writing or any matter or thing as shall have been approved by the Council.

Condition 20

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

Suggested notice ‘PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES’

Condition 21

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Condition 22

The windows of the licensed premises fronting the pavement shall not be as obscured other than with the consent of the Council, but shall have suspended behind them, in a position and attitude approved by the Council, such opaque blinds or screen or such other arrangements as approved by the Council.

This condition shall not be construed as lessening any obligation of the Licensee under Licence Condition 21.

Any such special precautions as may be necessary shall be taken to maintain the screening of the shop window during any cleaning process.

State, Condition & Layout of the Premises

Condition 23

The premises shall be maintained in good repair and condition throughout, including the front fascia of the shop and entrance to the satisfaction of the Council.

Condition 24

Lighting in all parts of the premises shall be to a level approved by the Council and shall be in operation continuously during the hours when the sex establishment is open to the public.

Condition 25

The number, size and position of all doors or openings provided for the purpose of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-

All such doors or openings approved by the Council shall be clearly indicated on the inside by the word “Exit” or “Fire Exit”.

Doors and openings that lead to parts of the premises to which the public are not permitted to have access, shall have notices placed over them marked “Private – no access to the public”.

Save in the case of emergency no access shall be permitted through the premises adjoining or adjacent.

Condition 26

The external door/doors to the sex establishment shall be fitted with a device to provide for their automatic closure and such device shall be maintained in good working order.

Condition 27

No alterations or additions either internal or external, whether permanent or temporary to the structure, lighting or layout of the premises, shall be made except with the prior approval of the Council.

Condition 28

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Safety

Condition 29

The Licensee shall take all reasonable precautions for the safety of the public and employees.

Condition 31

Sevenoaks District Council reserves the right after grant, renewal or transfer of this licence at any time to dispense with or modify or relax any of these terms, conditions and restrictions and to make such additional terms, conditions and restrictions as they may deem requisite to meet the circumstances of any particular case.

Condition 32

The licence may be revoked by Sevenoaks District Council if at any time the holder is convicted of any offence of using the licensed premises, or other premises for which a similar licence has been granted other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Sex Cinemas

Film Categories

Condition 1

The categories U, PG, 12, 15, 18 and restricted 18 have the following effect:

- U—Universal - suitable for all
- PG – Parental Guidance – some scenes may be

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unsuitable for young children

- 12 – Passed only for persons of 12 years and over
- 15 – Passed only for persons of 15 years and over
- 18 – Passed only for persons of 18 years and over
- Restricted 18 - Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

Unclassified Films

Condition 2

The licensee must notify the Council in writing no later than twenty-eight days prior to exhibiting any other film that has not been classified as specified in the film categories. Such a film may only be exhibited if the Council gives written consent prior to the event and must comply in accordance with the terms of any such consent given.

Restricted Films

Condition 3

Films restricted 18 (R18) may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

Persons Under 18

Condition 4

No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME

Condition 5

No persons under 18 years of age shall be employed in any capacity at the premises in an area operating as sex cinema club.

Advertising

Condition 6

No advertisement displayed at the premises where a film is to be exhibited shall depict any scene or incident from a film that has been classified by the British Board of Film Classification, Board of Film Censors or approved for exhibition by the Licensing Authority.

Condition 7

The licensee shall display in a conspicuous position, to the satisfaction of the Council at each entrance to the premises, during the whole time the public are admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

Condition 8

When the programme includes a film restricted 18, the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

CINEMA CLUB – MEMBERS AND GUESTS ONLY.
PERSONS UNDER 18
CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME.

Condition 9

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Restricted 18

Condition 10

A register of all members and all visitors books of their guests shall be available for immediate inspection by an authorised officer of the Council during any performance or at any other reasonable time.

Condition 11

Tickets shall in no circumstances be sold to persons other than to members.

Membership

Condition 12

The club rules must be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.

Condition 13

Membership shall be open to persons of both sexes of not less than 18 years of age

Condition 14

Applications for membership, including both name and address, shall be in writing, signed by the applicant and if deemed necessary such applicant shall provide satisfactory references and proof of age.

Condition 15

No persons shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the management of the club.

Condition 16

New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.

Conduct and Management of Premises

Condition 17

An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the management may refuse to renew any membership without assigning reason for such refusal.

Condition 18

Members shall be entitled on any day to bring no more than one guest to accompany the member, and the name of the guest shall be entered in the visitors book and counter signed by the member.

Condition 19

Tickets shall be sold only to members on the production of a membership card, and members shall if required sign and acknowledgement for the ticket or tickets issued.

Condition 20

Membership cards shall be personal to the member and carry a photograph of the holder.

Condition 21

Neither membership tickets nor guest tickets shall be transferable.

Condition 22

Guest may be asked for proof of identity, or of age, or of any particulars of any guest shall be produced by any member of guest if demanded by the management.

Condition 23

Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Sale of Sex Articles

Condition 24

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

Display of Tariff and Charges

Condition 25

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Condition 26

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 27

A notice showing the name of the person responsible for the management of the sex cinema on that day to be prominently displayed within the sex cinema throughout the period during which he is responsible for its conduct.

Condition 28

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

Condition 29

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

Condition 30

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating his name and that he is an employee.

Condition 31

The Licensee or some responsible person nominated by him in writing for the purpose of managing a sex establishment in his absence and who's details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Condition 32

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Internal access to cinema

Condition 33

Windows and openings within the premises where films are shown should have blinds of a type and size that covers windows and openings which render the interior of the cinema where films are being shown invisible to passers by and/or other areas within the building that are open to the public for other activities.

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Condition 34

The licensee shall ensure that no noise shall emanate from the cinema that can be heard from within another area of the building or from outside.

Security

Condition 35

A member of staff is to remain in the vicinity of the entrance to the cinema to prevent under 18's or non-members from illegal entry.

Use of Premises

Condition 36

No change from a sex shop or sexual entertainment venue to a sex cinema or from a sex cinema to a sex shop or sexual entertainment venue shall be effected without the consent of the Council.

Safety

Condition 37

The Licensee shall take all reasonable precautions for the safety of the public and employees.

Sexual Entertainment Venue

Times of Opening

Condition 1

The premises shall not open unless otherwise permitted:

[TIMES WILL BE SPECIFIED FOR EACH LICENCE]

Conduct and Management of Premises

Condition 2

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 3

The licensee or the responsible person shall maintain a daily register to be kept on the premises and produced to an authorised officer on request. The register to be completed each day within 30 minutes of the Sex Entertainment Venue opening for business and will record the name and contact details of any person who is to be responsible for managing the Sex Entertainment Venue in the absence of the licensee and details of all staff employed at the premises including performers.

Condition 4

A notice showing the name of the person responsible for the management of the sex entertainment venue on that day to be prominently displayed within the sex

establishment throughout the period during which he is responsible for its conduct.

Condition 5

Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change.

Condition 6

The licensee shall ensure that no part of the building or its boundary is used by prostitutes (male or female) for the purposes of soliciting or any other immoral purposes. Neither the licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.

Condition 7

The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those that have been approved by the Council.

Condition 8

Licensee shall maintain good order on the premises and in particular shall ensure that no

- lewd conduct
- indecent behaviour
- unlawful possession and/or supply of controlled drugs
- conduct likely to cause a breach of the peace on the premises
- offers of any sexual or indecent service for reward
- any acts of violence against person or property and/or the attempt or threat of such acts
- takes place on the premises or in its immediate vicinity

Condition 9

A management operation manual detailing all aspects of procedure when the premises is operating relevant entertainment shall be produced and approved by the Licensing Authority. This document shall be on going and under constant review.

Condition 10

All members of staff (except performers) shall be easily identifiable. If required by the Council or Kent Police in writing, the licensee shall ensure that during the hours the premises are open for relevant entertainment staff will wear a badge of a type/format approved by the Council indicating their name and that they are an employee or person working in the premises.

Age Restriction

Condition 11

No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.

Condition 12

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES

Advertising

Condition 13

No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not) shall be exhibited so as to be visible from outside the premises without approval by the Council.

Condition 14

The licence holder shall not display outside the premises, or on any advertising material, photographs or other images that indicate and suggest striptease or similar dancing takes place on the premises and which may be offensive.

Condition 15

The premises should not advertise by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

External and Internal access to an area holding relevant entertainment

Condition 16

The entrances to the premises shall be of a material or covered with a material that will render the interior of the premises invisible to passers by.

Condition 17

Windows and openings within the premises other than entrances will have curtains / blinds of a type and size that covers windows and openings which render the interior of the premises where relevant entertainment is taking place invisible to passers by and/or other areas within the building that are open to the public for other activities.

Condition 18

Windows will remain closed whilst the premises or part of that premises is being used for relevant entertainment.

Layout of the premises

Condition 19

No fastening of any description shall be fitted upon any booth or cubicle within the premises.

Condition 20

All dance booths or cubicles are to be equipped with a panic alarm for safety.

Condition 21

Any changes to layout of the premises must be informed to the licensing authority in writing submitting plans. Alteration must not take place without prior written consent by the Licensing Authority

Condition 22

The licensee shall ensure that noise from the premises or vibration that is transmitted through the structure of the premises does not give rise to a nuisance to the occupiers of premises in the vicinity of the venue.

Condition 23

The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

Condition 24

Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked 'private' and remain closed other than for the purposes of the ingress and egress of management, staff and performers.

Entertainers/Performers

Condition 25

An appropriate room shall be set aside to provide a changing and rest area for entertainers. Arrangements shall be made to ensure that there is restricted public access to this room which shall be maintained at all times whilst the licensable activities are taking place and until such time as all performers using the dressing room have finished.

Condition 26

At all times during the performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience.

Condition 27

On leaving the premises performers, who wish to be, shall be escorted by a staff member to their vehicle or other safe location

Condition 28

Performers shall be aged not less than 18 years old.

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Condition 29

Only the performers shall provide the entertainment, no audience participation shall be permitted.

Condition 30

No performance shall include a sex act with any other performer, persons in the audience or with the use of any object or animal.

Condition 31

In the event of the relevant entertainment being performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment and the details shall be specified in a clearly visible notice in each area designed for private relevant entertainment.

Condition 32

Any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals shall not exhibit in the entranceway or in an area of the premises open to the public that is not a designated area for relevant entertainment.

Condition 33

All performers shall be aware of the management operation that will include a written policy on the conduct of performers.

Condition 34

Photography or videoing of performances should not be allowed.

Condition 35

There shall be routine checking of employment records and evidence that all prospective staff and performers have the right to work in the UK.

Condition 36

Performers should not be permitted to arrange contacts or liaisons, exchange telephone numbers or other means of making contact while on the premises

Staffing

Condition 37

During any lap dancing performance, or private dance, performers may not:

- Touch customers in any way
- Performer must not be within 30cms (12") from any part of a patron
- Climb onto furniture provided for patrons
- Simulate sex acts
- Use sex articles
- Sale of Goods

Condition 38

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Entertainment Venue.

Display of Tariff and Charges

Condition 39

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Condition 40

Where a charge is to be made for the company of a hostess or other companion this shall be identified on the tariff of charges to the satisfaction of the Council.

Condition 41

No order shall be accepted unless the customer has been provided with a copy of the said tariff and has been given sufficient time and opportunity to read it.

Condition 42

No charge shall be made to the customer for any drink provided for the hostess or companion unless that customer has specifically ordered it having first been made aware of the cost.

Use of Premises

Condition 43

No change from a sex shop or sex cinema to a sexual entertainment venue cinema or from a sex entertainment venue to a sex shop or sex cinema shall be effected without the consent of the Council.

Pool of Possible Additional Conditions

Age Restriction

Condition a

All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or proof of age card carrying a 'PASS' logo.

Security

Condition b

Door supervisors, registered in accordance with the Security Industry Authority (SIA) shall be on duty at all

times when relevant entertainment is taking place.

Condition c

An adequate number of door supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one door supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.

Condition d

CCTV to be installed to a standard agreed by police to cover all public areas, including all access and egress points in accordance with CCTV Code of Practice. Maintained and serviced on a regular basis and records to be kept. The system will have an incorporated recording facility and recordings to be stored for one calendar month. The CCTV system will be fully operational throughout the hours that the premises are open for licensable activity. Access of the recordings will be made available at any reasonable time to Police and Local Authority officers upon request. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident in a format that can be taken away to be viewed.

Entertainers/Performers

Condition e

Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement.

Condition f

There shall be no physical contact between customers and the dancers at any time except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.

Staffing

Condition g

All staff employed to work at any premises licensed as a sex establishment shall be required to provide an enhanced criminal records bureau disclosure to the Licensing Authority in which the premises is located.

GAMBLING ACT 2005 – FEES FOR 2013/14

Licensing Committee – 30 January 2013

Report of the: Deputy Chief Executive and Community and Planning Services Director

Status: For Decision

Executive Summary:

This report sets out details of the proposed fees the Gambling Act 2005 for the year 1 April 2013 until 31 March 2014 (Appendix A).

The Gambling Act fees were first set at the Licensing Committee on 30 May 2007, (with the same fee model being used to work out the proposed fee for the forthcoming year using a 2% inflation factor with rounding to “5” and “9” for the respective fee).

The District currently has seven Betting Premises that will be affected by the proposed fee increases. There are no other gambling premises currently operating in the District.

This report supports the Key Aim of safe communities

Portfolio Holder Cllr. Mrs Bracken

Head of Service Head of Environmental and Operational Services – Mr Richard Wilson

Recommendation: It is RESOLVED that the Gambling Act 2005 fees for 2013/14 as set out in Appendix A of the report be approved.

Background

1. The Gambling Act 2005 Section 212 gives the Secretary of State power to make regulations prescribing the fees payable to the Licensing Authority. It also gives the power to devolve to Licensing Authorities in England and Wales the freedom to set fees for premises licence applications, subject to any constraints the Secretary of State may prescribe. The government has decided that for England and Wales, Licensing Authorities will determine their own fees for gambling premises licences but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
2. After consulting widely and obtaining and considering information from licensing authorities and the gambling industry, the Department for Culture, Media and Sport (DCMS) has prescribed maximum fees for each type of premises and each type of application for which a fee is payable. The maximum levels have been included in Appendix A in brackets for comparison purposes. The previous years fees are printed in italics for your information.

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- a. There will be an initial fee to cover the cost of application and an annual “maintenance” fee.
 - b. The DCMS has asked Licensing Authorities to set fees to ensure full cost recovery and that the fee levels represent fairness and value for money for the gambling industry. All Licensing Authorities must set their fees upon a cost recovery basis only (Gambling Act Section 212 (2)(d)) and will be required to review their fee levels on an annual basis to ensure this.
3. The DCMS believe this approach will ensure fairness and value for money, while also allowing Licensing Authorities to fully recover the costs associated with premises licensing.

Introduction

4. The Local Authorities Coordinators of Regulatory Services (LACORS) published a fees toolkit to assist local authorities in compiling the fees levels and has advised authorities that it believes trade bodies of gambling premises will be undertaking judicial review proceedings against authorities which it believes are not setting their fees on the basis of cost-recovery.
5. Fees must be set for all types of premises licences and Temporary Use Notices (TUNs).

Premises type

- Casinos
 - Bingo
 - Betting (off-course)
 - Tracks (on-course betting)
 - Adult Gaming Centres
 - Family Entertainment Centres
6. The fees must be determined for the different classes of premises as set-out in the fees regulations (see Gambling Act 2005 Section 212(2)(b) and SI 2007 / 479 paragraph 3) and cannot be based, for example, upon premises size, rateable value etc.
7. Fees must be set by each Licensing Authority for the following:
- Application for a (new) premises licence
 - Application to vary a premises licence
 - Application to transfer the licence (Sections 188 and 189)
 - Application for re-instatement of the premises licence (Sections 195 & 196)

- Application for a provisional statement
- Application for a premises licence for a premises which already has a provisional statement
- Fee to accompany a request for a copy of the premises licence (Sections 190)
- Fee to accompany a notification of change of circumstances (only relevant change is that of address - Section 186)
- Fee to accompany a temporary use notice (Section 219)

Fees and Income

8. The fees have been calculated by examining the 'time' it takes to carry out the various tasks and who in the authority is likely to carry them out. The hourly rates of staff, including on costs for various members of staff, were provided by Finance. Then these hourly rates are fed in to a spreadsheet produced by the DCMS to calculate costs for each type of activity. For each application the processes involved are identified and the costs of each process are calculated and entered in to the spreadsheet provided by LACORS, which produces an average cost for each type of application and an annual fee.
9. The type of tasks involved in premises application for example, include, assistance to applicant (pre-application stage, including telephone advice, sending forms, etc), the checking of an application for completeness when received, checking all required documents are attached, processing the application fee, check, process, bank and reconcile payments, entering the information into our computer system (including scanning), contacting the applicant to clarify application or chase missing information if required, assess representations for relevance, undertake informal mediation, undertaking site visits where necessary, checking operating licence (this is issued by the Gambling Commission for individuals and companies who intend to provide facilities for certain types of gambling, in general these licences cover the principal commercial forms of gambling operations, s65 of the Gambling Act 2005 sets out the types of licences that may be issued). Once issued, determining the licence or arranging a hearing, holding a hearing, notification of the decision, prepare and issue the licence, update the records/register (including the notification to the Gambling Commission), appeal preparation and holding an appeal hearing.
10. The costs associated with appeals and hearings have been estimated and an estimation has been made as to the likelihood of these events occurring is entered into the final calculations. The risk of appeals and hearings occurring has been based on assumptions gathered through training on the Gambling Act 2005 and from the authority's experience of the frequency of hearings and appeals under the Licensing Act 2003.

Key Implications

Financial

Agenda Item 5

11. The current number of premises that will be subject to Gambling Act 2005 fees is seven betting shops, whose annual fees will generate £3,395 (7 x £485).

Legal, Human Rights etc.

12. Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.

Equality

13. There are no Equality Impacts.

RISK ASSESSMENT STATEMENT

14. The process of setting the proposed fees for premises licence fees for premises used for gambling is essential to ensure that operational costs are recovered. If no decision is taken, the Council budgetary objectives are unlikely to be met.
15. Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.
16. Case law relating to fee levels in various licensing areas has agreed a general principle that licensing fees should not be used as a method of creating revenue and so setting a fee level that would result in an excess of revenue would leave the authority open to legal challenge.

Sources of Information:

Licensing Committee minutes from 30 May 2007 and 22 January 2009 – (Setting of fees for Gambling Act 2005)

<http://www.culture.gov.uk>

<http://www.gamblingcommission.gov.uk>

Contact Officer(s):

Claire Perry Ext. 7325

**DEPUTY CHIEF EXECUTIVE & COMMUNITY AND PLANNING SERVICES DIRECTOR
KRISTEN PATERSON**

Appendix A

**SEVENOAKS DISTRICT COUNCIL'S
GAMBLING ACT 2005 - FEES
1 April 2013 – 31 March 2014**

Premises Type	New Application			Annual Fee		
	£			£		
Existing Casinos	n/a			n/a		
New Small Casino	7015	(8,000)	6875	3890	(5000)	3810
New Large Casino	8060	(10,000)	7915	6280	(10000)	6155
Bingo Club	2570	(3500)	2520	720	(1000)	705
Betting Premises (excluding Tracks)	2570	(3000)	2520	500	(600)	475
Tracks	1560	(2500)	1530	720	(1000)	705
Family Entertainment Centres	1560	(2000)	1530	590	(750)	580
Adult Gaming Centre	1560	(2000)	1530	720	(750)	705
Temporary Use Notice	205	(500)	200	N/A		

	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application (provisional Statement holders)	Copy Licence	Notification of Change
	£	£	£	£	£	£	£
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a	n/a
New Small Casino	3330 (4000) 3265	1480 (1800) 1450	1480 (1800) 1450	6920 (8000) 7060	2525 (3000) 2475	11 (25) 11	27 (50) 26
New Large Casino	3960 (5000) 3880	1870 (2150) 1835	1870 (2150) 1835	8080 (10000) 7920	3700 (5000) 3630	11 (25) 11	27 (50) 26
Bingo Club	1500 (1750) 1470	1200 (1200) 1200	1200 (1200) 1200	2570 (3500) 2520	1200 (1200) 1200	11 (25) 11	27 (50) 26
Betting Premises (excluding tracks)	1480 (1500) 1450	1200 (1200) 1200	1200 (1200) 1200	1540 (3000) 1510	1200 (1200) 1200	11 (25) 11	27 (50) 26
Tracks	1250 (1250) 1250	950 (950) 950	950 (950) 950	1560 (2500) 1530	950 (950) 950	11 (25) 11	27 (50) 26
Family Entertainment Centres	1000 (1000) 1000	950 (950) 950	950 (950) 950	1525 (2000) 1495	950 (950) 950	11 (25) 11	27 (50) 26
Adult Gaming Centre	1000 (1000) 1000	1200 (1200) 1200	1200 (1200) 1200	1560 (2000) 1530	1200 (1200) 1200	11 (25) 11	27 (50) 26

**SEVENOAKS DISTRICT COUNCIL'S
 GAMBLING ACT 2005 - FEES
 1 April 2013 – 31 March 2014**

Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	11 (25) <i>11</i>	27 (50) <i>26</i>
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Proposed new fees as shown in bold type in the table above. For ease of reference the maximum fees identified by DCMS that could be charged are shown in brackets and last year's fees are in italics..

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - LICENSE FEES 2013/ 14

Licensing Committee – 30 January 2013

Report of the: Deputy Chief Executive & Community and Planning Services Director

Status: For Decision

Executive Summary:

This report considers the appropriate licence fees and associated costs of Hackney Carriage and Private Hire licensing for the 2013/14 financial year to ensure that the 'Taxi Licensing' service remains self-financing, in accordance with the Council's Service and Budget Plan.

This report supports the Key Aim of safe communities and effective management of Council Resources.

Portfolio Holder Cllr. Mrs Bracken

Head of Service Head of Environmental and Operational Services – Mr Richard Wilson

Recommendation: It be RESOLVED that:

From 1 April 2013 the list of fees and associated costs for licences in respect of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators be varied as follows:

	Existing Fees	New Fees
Hackney Carriage Driver's Licence		
On initial application	£159 for three years	£163 for three years
Criminal Records Bureau Search Fee	£44	£44
On renewal	£115 for three years	£118 for three years
Criminal Records Bureau Search Fee	£44	£44
Hackney Carriage Vehicle Licence		
	£280 for one year	£290 for one year
Private Hire Operator's Licence		

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On initial application	£294 for three years	£300 for three years
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On renewal	£94 for three years	£96 for three years
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Private Hire Driver's Licence

On initial application	£159 for three years	£163 for three years
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Criminal Records Bureau Search Fee	£44	£44
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On renewal	£115 for three years	£118 for three years
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Criminal Records Bureau Search Fee	£44	£44
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Private Hire Vehicle Licence	£280 for one year	£290 for one year
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Additional Costs

Change of Hackney Carriage to Private Hire	£66	£68
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Change from Private Hire to Hackney Carriage	£88	£90
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Replace Vehicle Plate	£23	£23
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Replace Identification Badge	£8.70	£9
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Vehicle Re-test	£54.85	£54.85
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Vehicle Partial Re-Test	Half the current MOT fee	Half the current MOT fee
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Change of Ownership of Licensed Vehicle	£65	£67
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Attempting "Knowledge Test" after two failures	£48 for each attempt	£49
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Vehicle Tests –		Owner turning up without their insurance documents will be charged half the fee and the test will not go ahead.
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Copies of existing licences	£8 each	£8 each
Change of address details for a replacement licence or for change of name for vehicle/operator licence	£10.50	£10.50
Change of name and address for a driver's badge	£20	£20

Replacement Vehicles

If a licensed vehicle is replaced during the valid licence period then the cost of licensing the replacement vehicle will be £290. However, if the vehicle is replaced within six months of the issue of the licence then the fee will be reduced by £100 in the first of those six months; £90 in the second; £80 in the third; £70 in the fourth; £60 in the fifth and £50 in the sixth month.

If a licensed vehicle is replaced temporarily for up to 2 months because of damage to it then the fee will be £99 to test and licence the replacement vehicle and a further £99 to test and re-licence the original vehicle.

Medical Fee for new and renewal driver licences for Hackney Carriage and Private Hire payable directly to The Cedars Surgery	£55 for three years	£50 for three years
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Background

1. This taxi licensing service is required to be self-financing and the proposed increases to fees will ensure this is maintained.
2. The licence fees and associated costs of taxi licensing are also increased in line with the 2.5% inflation rate in accordance with the Council's Service and Budget Plan.
3. Careful monitoring of income and expenditure has been carried out over the current financial year and the income from licence fees and associated costs, together with expenditure has been in accordance with the objectives laid out in the budget plan.
4. The Driving Standards Agency fee for its Taxi Driver Test, that new applicants are required to take in accordance with the Council's Taxi Licensing Policy, is currently £79.66 payable (weekday fee) to the DSA by the applicant.
5. The Cedars Surgery at Swanley is the current approved Centre for medical examinations with respect to Driver Licence applications in accordance with the Taxi Licensing Policy. Cedars Surgery won the tender early in 2012 with a reduced fee payable by the applicant of £50.

Agenda Item 6

6. The fee for the Criminal Records Bureau Enhanced Search remains the same as last year at £44.
7. The three costs mentioned in the two preceding paragraphs, which a new applicant has to pay, mean that in addition to the licence fee set by Members a new applicant for a driver licence will have to pay, if the recommended licence fee increase is approved, a total of £337.66 from 1 April 2013 whilst an applicant for a renewal of a licence will pay a total of £201 from the same date.

	New applicant for driver licence	Renewal of a drivers licence
Application	£163.00	£118.00
CRB	£44.00	£44.00
Medical	£50.00	£50.00
DSA driving test	£79.66	Not applicable
Total	£336.66	£212.00

8. The Licensing team will write to all Hackney Carriage Proprietors, Private Hire Operators and all Drivers after this Licensing Committee meeting to give all parties the opportunity to make comment.

Key Implications

Financial

9. The cost of licence fees takes into account the need to maintain a 'self financing' position for the service. The proposals contained in this report will achieve this.

Legal, Human Rights etc.

10. Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.

Equality

11. Hackney Carriages and Private Hire vehicles are available to all groups within the community.

RISK ASSESSMENT STATEMENT

12. If the proposed licence fee increases are not agreed, as proposed, then financial support to the Taxi Licensing Service will have to be borne from within the Council's budgets.

Licensing Committee minutes 26.1.2011

Sources of Information:

Local Government (Miscellaneous) Provisions Act 1976.

Taxi Licensing Policy

Contact Officer(s):

Claire Perry Ext. 7325

**DEPUTY CHIEF EXECUTIVE & COMMUNITY AND PLANNING SERVICES DIRECTOR
KRISTEN PATERSON**

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