

Notice of Licensing Committee

Date: Thursday, 10 December 2020 at 10.00 am

Venue: Virtual Teams Meeting



Membership:

Chair:

Cllr J J Butt

Vice Chair:

Cllr J Bagwell

Cllr S C Anderson
Cllr D Brown
Cllr R Burton
Cllr N Decent
Cllr B Dion

Cllr B Dove
Cllr G Farquhar
Cllr D Farr
Cllr D A Flagg
Cllr A Hadley

Cllr T Johnson
Cllr D Kelsey
Cllr L Williams

All Members of the Licensing Committee are summoned to attend this meeting to consider the items of business set out on the agenda below.

The press and public are welcome to view the live stream of this meeting at the following link:

<https://democracy.bcpCouncil.gov.uk/ieListDocuments.aspx?MId=4361>

If you would like any further information on the items to be considered at the meeting please contact: Jill Holyoake, Democratic Services or email jill.holyoake@bcpCouncil.gov.uk

Press enquiries should be directed to the Press Office: Tel: 01202 454668 or email press.office@bcpCouncil.gov.uk

This notice and all the papers mentioned within it are available at democracy.bcpCouncil.gov.uk

GRAHAM FARRANT
CHIEF EXECUTIVE

2 December 2020



Available online and
on the Mod.gov app



Maintaining and promoting high standards of conduct

Declaring interests at meetings

Familiarise yourself with the Councillor Code of Conduct which can be found in Part 6 of the Council's Constitution.

Before the meeting, read the agenda and reports to see if the matters to be discussed at the meeting concern your interests



What are the principles of bias and pre-determination and how do they affect my participation in the meeting?

Bias and predetermination are common law concepts. If they affect you, your participation in the meeting may call into question the decision arrived at on the item.

Bias Test

In all the circumstances, would it lead a fair minded and informed observer to conclude that there was a real possibility or a real danger that the decision maker was biased?

Predetermination Test

At the time of making the decision, did the decision maker have a closed mind?

If a councillor appears to be biased or to have predetermined their decision, they must NOT participate in the meeting.

For more information or advice please contact the Monitoring Officer
(susan.zeiss@bcpcouncil.gov.uk)

Selflessness

Councillors should act solely in terms of the public interest

Integrity

Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships

Objectivity

Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

Accountability

Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this

Openness

Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing

Honesty & Integrity

Councillors should act with honesty and integrity and should not place themselves in situations where their honesty and integrity may be questioned

Leadership

Councillors should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs

AGENDA

Items to be considered while the meeting is open to the public

1. **Apologies**

To receive any apologies for absence from Councillors.

2. **Substitute Members**

To receive information on any changes in the membership of the Committee.

Note – When a member of a Committee is unable to attend a meeting of a Committee or Sub-Committee, the relevant Political Group Leader (or their nominated representative) may, by notice to the Monitoring Officer (or their nominated representative) prior to the meeting, appoint a substitute member from within the same Political Group. The contact details on the front of this agenda should be used for notifications.

3. **Declarations of Interests**

Councillors are requested to declare any interests on items included in this agenda. Please refer to the workflow on the preceding page for guidance.

Declarations received will be reported at the meeting.

4. **Confirmation of Minutes**

To confirm and sign as a correct record the minutes of the Licensing Committee meeting held on 17 September 2020 and the Licensing Sub Committee meetings held on 1, 16 and 29 September, and 13 October 2020.

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5. **Public Issues**

To receive any public questions, statements or petitions submitted in accordance with the Constitution, which is available to view at the following link:

<https://democracy.bcpCouncil.gov.uk/ieListMeetings.aspx?CommitteeID=151&Info=1&bcr=1>

The deadline for the submission of a public question is 4 clear working days before the meeting.

The deadline for the submission of a public statement is midday the day before the meeting.

The deadline for the submission of a petition is 10 working days before the meeting.

6. **New BCP Council Sex Establishment Policy**

This is the first Sex Establishment Policy for BCP Council since the establishment on the 1st April 2019 of a single local government area for the now dissolved boroughs of Bournemouth, Christchurch and Poole.

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7. New BCP Council Scrap Metal Dealer Policy	111 - 140
<p>The purpose of this policy is to highlight the requirements of the Scrap Metal Dealers Act 2013 by providing guidance to new applicants, existing licence holders, consultees and members of the public on how the Act is administered and enforced.</p> <p>Currently within the BCP Council area there are three sets of fees for the issuing of licences under this legislation and it is proposed to introduce a single set of fees.</p>	
8. Forward Plan	141 - 142
<p>To consider the proposed work priorities of the Licensing Committee as set out in the attached draft Forward Plan.</p>	
9. Chair's Updates	
<p>The Chair will provide updates on:</p> <ul style="list-style-type: none"> the Calendar of Meetings for the remainder of the 2020/21 Municipal Year and for the 2021/22 and 2022/23 Municipal Years, following the adjourned Council meeting to be held on 8 December 2020. A proposal to trial the use of an identified second reserve for Licensing Sub Committees for the remainder of the 2020/21 Municipal Year 	

No other items of business can be considered unless the Chair decides the matter is urgent for reasons that must be specified and recorded in the Minutes.

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING COMMITTEE

Minutes of the Meeting held on 17 September 2020 at 10.00 am

Present:-

Cllr J J Butt – Chairman

Cllr J Bagwell – Vice-Chairman

Present: Cllr S C Anderson, Cllr S Baron, Cllr R Burton, Cllr N Decent,
Cllr B Dion, Cllr B Dove, Cllr B Dunlop, Cllr M Earl, Cllr G Farquhar,
Cllr D Farr, Cllr D A Flagg, Cllr T Johnson and Cllr D Kelsey

Also in attendance: Cllr V Slade

1. Election of Chairman

RESOLVED that Cllr J J Butt be elected Chairman of the Licensing Committee for the 2020/2021 Municipal Year.

Voting: Unanimous

The outgoing Chairman, Cllr D Flagg, thanked Committee members and officers for their support over the last 16 months and for responding well to the challenges of virtual meetings during this period. In particular he thanked Cllr D Kelsey for his support on various sub committees. He wished the new Chairman well in the role.

2. Election of Vice Chairman

RESOLVED that Cllr J Bagwell be elected Vice Chairman of the Licensing Committee for the 2020/2021 Municipal Year.

Voting: Unanimous

The new Chairman, Cllr J J Butt, and members of the Committee thanked Cllr D Flagg and Cllr G Farquhar for their work as Chairman and Vice Chairman over the last 16 months.

3. Apologies

There were no apologies for this meeting.

4. Substitute Members

There were no substitute members for this meeting.

5. Declarations of Interests

There were no declarations of interest on agenda items considered at this meeting.

6. Confirmation of Minutes

RESOLVED that the minutes of the Licensing Committee held on 4 March 2020, and the minutes of the Licensing Sub Committees held on 24 February, 3 and 17 March, 14 and 28 April, 4 and 20 May, 16 June, 8 and 21 July, and 12 and 19 August 2020, be confirmed as a correct record, subject to the following addition:

Licensing Sub Committee, 14 April 2020 – Minute 123 – Cllr B Dunlop asked that her vote against the resolution be recorded in the minutes of the meeting.

7. Public Issues

The Chairman reported that two public statements had been received in relation to the draft hackney carriage and private hire policies from Mr David Lane and Mr Calvin Dade, both representing Poole Taxi Association. These statements had been published on the Council's website and a link circulated to all Committee members. The statements would be referenced further when considering the relevant agenda items.

8. Licensing Act 2003 - Review of Statement of Licensing Policy (SOLP)

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book.

It was noted that this was the first Statement of Licensing Policy for BCP Council since the establishment, on the 1st April 2019 of a single local government area for the now dissolved boroughs of Bournemouth, Christchurch and Poole. Consultation on the proposed SOLP had been undertaken in accordance with Section 5 of the Licensing Act 2003 and agreed by Members of the Licensing Committee. The Licensing Manager explained that due to significant feedback and proposed amendments following public consultation on Version 5 of the SOLP, a further six week consultation on Version 6 had taken place. The Licensing Committee on behalf of the Licensing Authority was now required to consider the final draft of the SOLP (Version 7, attached at Appendix 1 of the report) and all responses received (listed in Appendix 2 of the report), and decide whether to include or exclude the responses and provide reasons for its decision.

The Committee confirmed its agreement with the action already taken by officers as indicated against the consultation responses listed in Appendix 2.

The Chairman explained that the Committee would now consider the following responses which were highlighted in the document for discussion and decision:

Paragraph number	Respondent	Summary of Comments	Committee Decision	Reason
6.6	Roger Brewer, Upton Country Park	Perhaps helpful to confirm that Council premise licence is for 4999 capacity, does not include alcohol and is only available subject to agreement and conditions. Larger events required to apply for own premise licence - past examples have included Starlight 'Dance in the Park' hosted at Upton Country Park in 2019 which attracted an audience of over 7k.	Exclude	Amendment unnecessary as already have provision under BCP Council licence and 6.6 applies across BCP. Works well as it is. Could be onerous on individuals and licensing team.
7.3	Sandra Graham, Trethowans LLP	Effectively repetition of 1.2	Exclude	Helpful to restate timescales in different section of document, for clarity
8.3/8.4	As above	Combine wording with 8.7 as so similar, in order to be succinct	Exclude	Helpful to retain wording as is, for clarity
8.8	As above	Repeat of 1.4	Exclude	Retain, as helpful to restate licensable activities in different section for clarity
Section 9	Martyn Underhill, Dorset Police and Crime Commissioner	Concerned that changes appear to advocate lighter touch than previously and removes previous BBC	Exclude	No substantial evidence received from any of the Responsible Authorities following the Licensing

		Cumulative Impact Special Policy that was kept under regular review. New proposal states that BCP Council may produce Cumulative Impact Assessment Policy. Given issues and hotspot areas that already exist I would expect to see such a Policy produced and continue to be kept under regular review.		Authority's 'call for evidence' to support the designation of a cumulative impact zone in BCP Council area. V6 was amended to reflect this. Needs to be evidence based in accordance with the Licensing Act 2003 and associated guidance. Position can be reviewed at any time should evidence be provided and the Committee discussed and noted the process for doing so.
10.4	Sandra Graham Trethowans LLP	Helpful to clarify rebuttable presumption of what	Accept	Accept paragraph can be deleted as relates to Cumulative Impact area
10.9	As above	Are all licensees regardless of type of premises expected to maintain ongoing review of need for alternatives to glass? If so, do you require this to be documented. If not, how is compliance with this proved?	Exclude	Accept officer evaluation that all premises expected to include this in risk assessments, which should be available on request by authorised officer. Include reference to risk assessment in paragraph.
12.3	Martyn Underhill, Dorset PCC	It isn't clear what the current 'mix/diversity' looks like and how used to inform future licensing decisions. Would like to see a Cumulative Impact	Accept	Accept officer recommendation to remove section as misleading and outside of Licensing Authority powers. All applications dealt with in accordance with Act and

		Statement or Policy that addresses this and allows for informed and evidence-based decision making. Also mindful of current situation and recovery process from Covid-19 which is likely to have a significant impact on a number of businesses and premises and could see the diversity of premises also change as a result.		regulations.
14.8	Sandra Graham Trethowans LLP	Providing information on the premises of local taxi companies who can provide safe transportation home. The word safe in this context concerns me as whilst it is very much hoped it is safe the operator of the licensed premises cannot vouch for the fact that the taxi called is safe	Accept	Agree with reasoning and suggestion to amend wording to include licensed taxi company and remove word 'safe'
14.18	As above	Likely to be problematic and cause issues for licensee whose licence goes well beyond these licensing hours at night particularly where hotels are concerned. Is the suggestion	Accept	Agree with reasoning and amend wording to 'After 2300 consideration should be given to the impact of patrons using the outside smoking areas. LA normally expect public use of external areas

LICENSING COMMITTEE
17 September 2020

		that such persons wishing to smoke then move to a public pavement or similar after 11pm?		in licensee's control to cease at 2300, or additional controls of patrons put in place'
14.34	Jill Aiken, Strategic Safeguarding and Quality Manager, BCP Council	Please add something which refers to delivery of alcohol also having Challenge 25 scheme used	Accept	Agree with suggestion to add wording to include alcohol delivered in bullet point referencing Challenge 25, for clarity.
19.1	Sandra Graham, Trethowans LLP	Does some council area refer to some areas within BCP council or generally geographically across the country, requires clarity	Accept	Agree can be removed from paragraph as generic for the country
23.1	As above	Second sentence needs clarity and costs being awarded against who	Accept	Agree to add following at end of paragraph for clarity: costs being awarded to either party depending on the outcome of appeal
Protection of Children from Harm - Staff training	Julia Palmer, JCP Law	Remove reference to TSSW specific training.	Accept	Agree with comments made that too prescriptive, many operators have own training procedures, onus of premise licence holder to ensure staff appropriately trained. This training has not inconsiderable cost element, which could be unacceptable burden to applicants.
Prevention of Crime and Disorder –	Philip Day, Laceys Solicitors	This makes it look as if this would be the norm – what	Amend	Not the norm, condition usually qualified by a reference to sales

ABV Limit		about craft beers, etc?		of single cans or bottles of less than 2litres in volume. Agree to add reference that condition is applied as needed depending on application (for example, where there are particular concerns about street drinking).
Prevention of Crime and Disorder – Off Sales	As above	Third paragraph – alcohol outside shall only be consumed by patrons seated at tables	Accept	Delete. Agree with comment made that this would result in patrons not being able to stand and drink in a beer garden. Either people will be allowed to take alcohol away from the premises or won't be. Difficult to enforce.
Protection of Children from Harm – Challenge 21 or 25	As above	Amend first paragraph to delete words in brackets	Accept	Agreed
Protection of Children from Harm – Staff training	As above	Amend wording to replace reference to TSSW to read “shall be trained with regard to the law on restricted sales (to persons who are under the age of 18 and/or intoxicated) and with regard to the terms and conditions of the premises licence....A written record of all staff training shall be maintained and kept on the	Accept	Agree to amend wording, reflects previous comment made by Julia Palmer above, and noted that inclusion of restricted sales covers everything

		premises and made available on request to the police or other authorised officers.”		
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RESOLVED that the Committee records its thanks to the Licensing Manager and the Licensing team for their work in preparing the new Statement of Licensing Policy for BCP Council

RECOMMENDED that the final version of the Statement of Licensing Policy as amended by the Committee be adopted by Full Council.

Voting: Unanimous

9. Consideration of draft Taxi and Private Hire Policies for BCP Council for public consultation

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'B' to these Minutes in the Minute Book.

The Committee was advised that these were the first draft hackney carriage and private hire policies for BCP Council since the establishment, on the 1 April 2019 of a single local government area for the now dissolved boroughs of Bournemouth, Christchurch and Poole. For ease of reference the overall policy had been split into three documents covering the Drivers Policy, Vehicle Policy and Operators Policy, circulated as appendices to the report. Each policy was intended to apply to all drivers, vehicles and operators in each of the three current controlled zones.

The Licensing Manager explained that the draft policies had been developed with the support of a Member Working Group appointed by the Licensing Committee, comprising Councillors Butt, Farquhar, Flagg, Johnson and Kelsey. The Committee was grateful to the Working Group and supporting officers for their input. Workshops had also taken place with representatives of the taxi trade for the BCP Council area and their input included in the draft policies. The Committee was asked to consider the draft policies, amend them as necessary and agree them for public consultation.

The Chairman explained the process for considering each policy in turn and asked the Committee to focus on the main issues for discussion and decision. Any typographical points would be addressed by officers prior to the documents being released for public consultation.

Draft Hackney Carriage and Private Hire Driver Policy (Appendix 1):

The Committee discussed the policy and agreed the following actions:

Section 14 Driver Dress Code:

- 14.9 Amend to read 'Headwear such a baseball caps is not permitted *except in religious or medical circumstances*', as the Committee was mindful that there were certain circumstances where an exception should apply. The Committee asked that its suggested additional wording in italics be agreed in consultation with Council's Equality and Diversity Officer.

Appendix A - How to Apply:

- DBS Online Application Instructions: The Committee asked the Licensing Manager to report back to its December meeting to confirm that the application process on the BCP Council website requires the completion of Yes/No field and the completion of a declaration which includes reference to it being a criminal offence under the Theft Act 1968 to gain financially by deception.
- Application Process: Agree to amend to BCP as indicated
- Knowledge Test: Agree to additions as indicated
- Child Sexual Exploitation and Human Trafficking Awareness Training: Agree that training should be delivered in person at the point of application and renewal for all drivers, to ensure training is robust and up to date. The Committee discussed options for how the training should be delivered and agreed to refer this matter to the Children's Services O&S Committee for input, with a report back in time for the December Licensing Committee
- Data Matching: Agree to include NAFA data statement as well

Appendix B – Conditions of Licence - Section 2: Conduct of Driver:

- Agree to include links as indicated

Appendix D – Section 4 – Offence of Dishonesty:

- Amend paragraphs 4.6 and 4.7 for clarity to read 'caution(s) or conviction(s)' where the word 'conviction(s)' is used (and apply same amendment to corresponding section of vehicle and operator policies).

Draft Hackney Carriage and Private Hire Vehicle Policy (Appendix 2)

The Chairman read aloud the two public statements received from representatives of Poole Taxi Association: Mr David Lane in support of

vehicle CCTV installation being optional, and Mr Calvin Dade in support of introducing a limit on vehicle numbers in the Christchurch zone.

The Committee discussed the policy and agreed the following actions:

Section 9 – Vehicle emission requirements:

- Agree to include paragraph 9.5 regarding all licensed vehicles meeting the Euro 6 emission standard by 31 March 2023.

The Committee felt that this allowed a reasonable period of time for members of the trade to make arrangements for vehicles to be compliant.

Section 13 – CCTV and other electronic equipment:

- Include Section 13 in the policy to ensure vehicles with this equipment meet statutory standards in order to protect the public and the driver. Installation to remain optional, on the basis that the policy can be reviewed should the Licensing Authority provide evidence to support the local need for such equipment to be mandatory.

The Committee was mindful that evidence to support a local need for mandatory CCTV was currently lacking. It also noted that any approved CCTV system was required to meet high standards of encryption and security set by the Information Commissioner Office (ICO). This came at a cost of between £600 - £700 per vehicle. The Committee did not support the imposition of additional costs for the taxi trade where need was not demonstrated at the present time, but agreed that anyone choosing to install CCTV must use a system which met the required ICO standards.

Section 16 – Quantity Restrictions on hackney carriage numbers:

- Retain the three Bournemouth, Poole and Christchurch zones
- Increase Hackney Carriage Levels by releasing an additional 15 Wheelchair Accessible Vehicles (WAVs) per year in each of the Bournemouth and Poole zones until 2025
- Remove the cap in the Bournemouth and Poole zones in 2025
- Maintain the 'no cap' in the Christchurch zone, with any additional vehicles to be WAV
- All additional WAVs to be on a permanent basis (i.e. any replacement vehicles must also be WAV)

The Committee was mindful of the Best Practice Guidance issued in 2010, which set out the legal position on restricting the number of taxis in an area provided that there was no significant unmet need and recommended reviewing this position on a regular basis. The latest unmet needs survey dated February 2020, attached at Appendix 4 of the report, concluded that there was currently no unmet need. It was therefore at the Committee's discretion whether to amend the existing limits set by the preceding authorities, which were as follows: Bournemouth – 249, Poole – 88,

Christchurch – no restriction. The Committee was also required to consider whether to create one controlled zone for the BCP Council area or retain the three legacy zones.

The Committee had a thorough discussion before agreeing to include the above provisions in the draft policy. Members supported the principle of removing the caps in Bournemouth and Poole rather than introducing them in Christchurch, in the interests of a free market, but felt that numbers should be increased gradually in stages, to avoid an immediate influx of applications and strain on infrastructure, and to enable licence holders sufficient time to prepare and where necessary make adjustments, particularly those who may have recently invested in a plate. In the interests of fairness and transparency, and as the new vehicle policy was due to be reviewed in 2025, the Committee agreed that 2025 would be an appropriate time to lift the caps completely.

The Committee supported a similar phased approach for the use of WAVs. Members agreed that additional vehicles released in Bournemouth and Poole between now and 2025 and any new vehicles in Christchurch should be WAVs. Including a provision in the policy for the WAV to be on a permanent basis would ensure that any replacement vehicle was also required to be a WAV. The Committee agreed to include the retention of the three legacy zones of Bournemouth, Christchurch and Poole in the draft policy, in recognition of their different demographic and individual needs.

It was noted that taxi trade representatives and individual drivers would have the opportunity to comment further on the draft policies as part of the public consultation.

Section 27 – Accidents/damage to vehicles and temporary substitution:

- Include paragraph 27.4 and specify *within seven days* of the application

Appendix D – CCTV Specification:

- Retention of Images / Use of the Information / The Data Controller / Third Party Data Processor – agree to include text as indicated

Draft Private Hire Operator Policy (Appendix 3)

The Committee made no further comments or amendments to the draft policy.

RESOLVED that the draft Hackney Carriage and Private Hire Driver Policy, the draft Hackney Carriage and Private Hire Vehicle Policy, and the draft Private Hire Operator Policy, as amended by the Committee, be agreed for public consultation.

Voting: Unanimous

Cllr V Slade left the meeting at 11.30am

Cllr D Flagg left the meeting at 1.45pm

The meeting was adjourned between 11.35am and 11.45am
and 1.45pm and 1.55pm.

The meeting ended at 2.05 pm

CHAIRMAN

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 01 September 2020 at 10.00 am

Present:-

Cllr D A Flagg – Chairman

Present: Cllr B Dunlop and Cllr D Farr

21. Election of Chairman

RESOLVED that Councillor Flagg be elected Chairman of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

22. Apologies

Apologies had been received from Councillor J Butt, Councillor Dunlop was attending as the reserve member.

23. Declarations of Interests

There were no declarations of interest received on this occasion.

24. Exclusion of Press and Public

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

25. Application for a Review of a Premises Licence Chicken Express, 144 Old Christchurch Road. Bournemouth

This item was restricted by virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

The Licensing Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book.

Councillors were asked to consider an application to review a Private Hire Driver Licence (Christchurch Zone).

The meeting ended at 11.40 am

CHAIRMAN

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BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 16 September 2020 at 10.00 am

Present:-

Cllr G Farquhar – Chairman

Present: Cllr B Dove and Cllr T Johnson

Also in attendance: Cllr M Earl and Cllr D Kelsey

26. Election of Chairman

RESOLVED that Councillor Farquhar be elected Chairman of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

27. Apologies

There were no apologies received on this occasion.

28. Declarations of Interests

There were no declarations received on this occasion.

29. Exclusion of Press and Public

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

30. Public Carriage Driver Application in the Christchurch Zone

This item was restricted by virtue of paragraphs 1 & 2 (information relating to any individual and information which is likely to reveal the identity of an individual).

The Licensing Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book.

The Licensing Sub Committee were asked to decide whether the driver remained a 'fit and proper' person to hold a Public Carriage licence and if the application for renewal be granted or refused.

It was RESOLVED to refuse the application to renew the applicant's Private Hire Vehicle drivers licence in accordance with section 61(b) Local Government (Miscellaneous Provisions) Act 1976, because the driver was not found to be a fit and proper person to hold such a licence.

Voting: unanimous

The meeting ended at 11.25 am

CHAIRMAN

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 29 September 2020 at 10.00 am

Present: Cllr S Baron, Cllr J J Butt and Cllr D Kelsey

31. Election of Chairman

RESOLVED that Councillor Judy Butt be elected Chairman of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

32. Apologies

There were no apologies for absence.

33. Declarations of Interests

There were no declarations of interest received.

34. Reefside Kiosks, Kiosk 1 and 2, Boscombe Pier Sea Road, Boscombe, Bournemouth, BH5 1BN

The Sub-Committee was asked to open and adjourn this application until 13 October 2020 to comply with the Hearing Regulations. This was due to the Applicant's solicitor not being able to attend, due to being on leave.

RESOLVED that the Sub-Committee open and adjourn this application to 13 October 2020.

Voting: Unanimous.

35. Exclusion of Press and Public

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 7 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

36. Consideration of Suitability of new Public Carriage Driver Licence in the Christchurch Zone

This item was restricted by virtue of paragraph(s) 3 of Part 1, 2 and 7 of Schedule 12A of the Local Government Act 1972.

Exempt information – Categories 1 (information relating to any individual), 2 (information which is likely to reveal the identity of an individual) and 7 (information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime).

Attendance:

From BCP Council:

Tania Jardim – Licensing Officer
Nananka Randle – Licensing Manager (observing)
Linda Cole – Legal Advisor to the Sub Committee
Michelle Cutler – Democratic Services Officer and Clerk to the Sub - Committee
The Applicant was also in attendance.

The Licensing Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book.

Councillors were asked to consider the suitability of a new Public Carriage Driver Licence in the Christchurch Zone.

The Sub-Committee RESOLVED to refuse the application for a Private Hire Vehicle Driving Licence in accordance with *section 51(1) Local Government (Miscellaneous Provisions) Act 1976*, because the Applicant was not found to be a ‘fit and proper’ person to hold such a licence.

In addition to the verbal submissions, the Sub-Committee took into consideration the written documents and information contained in agenda item 7; *the Christchurch zone Hackney Carriage & Private Hire Licences Council Policy* and the *Guidance on determining the suitability of applicants and licensees in the hackney carriage & private hire trades*, dated April 2018 produced by the Institute of Licensing (IOL)

The meeting ended at 10.34 am

CHAIRMAN

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 13 October 2020 at 10.00 am

Present: Cllr R Burton, Cllr J Butt and Cllr D Farr

37. Election of Chairman

RESOLVED that Councillor Judy Butt be elected Chairman of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

38. Apologies

There were no apologies for absence.

39. Declarations of Interests

There were no declarations of interest.

40. Application for a New Premises Licence The Reefsides Kiosks, Boscombe Pier, BH5 1BN

Attendance:

From BCP Council:

Nananka Randle – Licensing Manager
Tania Jardim – Licensing Technician
Linda Cole – Legal Advisor to the Sub-Committee
Michelle Cutler – Clerk to the Sub-Committee

Mr Philip Day – Lacey’s Solicitor’s, representing the Applicant
Mr Van Hubball – Proposed Designated Supervisor of The Reefsides Kiosks

BCP Councillor Jane Kelly – representing two objectors
BCP Councillor Anne Filer – objecting in her own right
Noel Oliver – Head of Operations, Bournemouth Beach Office, BCP Council, objecting

The Chairman opened the Hearing and introductions were made. The Chairman explained the proposed procedure for the Hearing, to which all parties agreed.

The Licensing Officer presented a report, a copy of which had been circulated and a copy of which appears as Appendix A to these minutes in the Minute Book.

The Sub Committee was asked to consider an application made by Mr Philip Day of Lacey's Solicitors, on behalf of Reefside Catering Limited, for a new premises licence at The Reefside Kiosks, Boscombe Pier. The application was for the supply of alcohol on and off the premises Monday to Sunday 10:00 to 19:00.

The application had resulted in six representations being received from other persons based on all the licensing objectives, namely, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The following persons attended the hearing and addressed the Sub Committee to expand on the points made in their written submissions:

Mr Philip Day – Lacey's Solicitor's, representing the Applicant

Mr Van Hubball – Proposed Designated Supervisor of The Reefside Kiosks

BCP Councillor Jane Kelly – representing two objectors

BCP Councillor Anne Filer – objecting in her own right

Noel Oliver – Head of Operations, Bournemouth Beach Office, BCP Council, objecting

Mr Day asked for clarification that a document dated 12 October 2020 relating to the application had been sent to all parties. The Clerk confirmed that the document had been received via email and distributed electronically to all parties.

During his representation, Mr Day advised that the application was to be amended to reflect that the supply of alcohol both on and off the premises would only emanate from Kiosk 2 and that there would be no sale of alcohol from Kiosk 1. In addition, the conditions offered in section M (a) of the Operating Schedule were amended and explained by Mr Day and submitted by Mr Day by email to the Sub-Committee at the conclusion of the Hearing as follows:-

1. No beer, lager or cider of a strength greater than 5.5% ABV shall be stocked, sold or supplied to customers
2. No sprits shall be sold unless as an ingredient in a cocktail or other mixed drink.
3. All alcoholic drinks, whether they be sold for consumption on or off the premises shall be decanted into a biodegradable container and no glass nor plastic bottles, tins or cans shall be sold or supplied to customers.
4. No single customer shall be allowed to purchase more than the equivalent of 8 units of alcohol at any one time and for this purpose, a half pint of beer or cider, a single measure of spirits (within a cocktail or other mixture) or a measure of wine not exceeding 175 ml shall be regarded as one unit.

The Sub Committee asked various questions of all parties present. All parties were given the opportunity to ask questions of each other. All parties were given the opportunity to sum up before the Sub Committee retired to make its decision. Before concluding the Legal Advisor advised all parties of the right of appeal.

It was RESOLVED to grant the application for a premises licence for the Reefside Kiosks, Boscombe Pier, Bournemouth BH5 1BN, dated 29 July 2020 for supply of alcohol both on and off the premises between the hours of 10:00 and 19:00 hours, seven days a week. This premises licence is granted subject to the amendment made to the application during the hearing by Mr Day of Lacey's Solicitors, who represents the applicant, Reefside Catering Ltd that the supply of all alcohol both on and off the premises would only emanate from Kiosk 2. There would be no sale of alcohol from Kiosk 1.

In addition, the conditions offered in section M (a) of the operating schedule, were amended and explained by Mr Day during the hearing, and submitted by Mr Day by email to the Sub-Committee at the conclusion of the hearing as follows

- 1.No beer, lager or cider of a strength greater than 5.5% ABV shall be stocked, sold or supplied to customers**
- 2.No sprits shall be sold unless as an ingredient in a cocktail or other mixed drink.**
- 3.All alcoholic drinks, whether they be sold for consumption on or off the premises shall be decanted into a biodegradable container and no glass nor plastic bottles, tins or cans shall be sold or supplied to customers.**
- 4.No single customer shall be allowed to purchase more than the equivalent of 8 units of alcohol at any one time and for this purpose, a half pint of beer or cider, a single measure of spirits (within a cocktail or other mixture) or a measure of wine not exceeding 175 ml shall be regarded as one unit.**

In addition, the Sub-Committee added the following condition to those offered in section M (b) of the operating schedule regarding CCTV

- 1. Supply of alcohol both on and off the premises is not to commence unless and until an appropriate CCTV system has been in consultation with Dorset Police at the premises which complies with the conditions offered in section M(b)**

The Sub-Committee also amended the condition offered in Section M(d) regarding prominent signage

1. **Prominent signage must be displayed around the premises to direct customers to the nearest public toilets and to request customers not to leave litter on the beach and to use the bins provided for any litter not taken home.**

Reasons for the decision:

The Sub-Committee gave detailed consideration to all the written evidence that had been submitted before the meeting and contained in Agenda Item 5, in particular to the written representations contained in appendix 3 of the report, along with the verbal submissions made by Ms Jardim the Licensing Officer and the verbal and written submissions made by Mr Day representing the applicant Reefside Catering Ltd. They also heard verbal submissions made by Mr Oliver, Contacts and Commercial Manager, Tourism, BCP Council; Councillor Kelly, ward Councillor for Boscombe West who spoke on behalf of herself and on behalf of 'Other persons' who had made written representations; and from Councillor Filer, ward Councillor for East Cliff and Springbourne. It also considered the responses given to questions asked at the meeting by all parties.

The Sub-Committee acknowledge the concerns raised in the written and verbal representations submitted and whilst it acknowledges there have been incidents in this general location in the past, that may undermine the licensing objectives of crime and disorder and public nuisance, it noted that these incidents are not connected to this premises and generally occur late in the evening and the early hours of the morning when this premises is closed and will not be licensed. It also noted that the Police had been involved in an informal consultation process with the applicant and they had not made any representation to the application.

The Sub-Committee feel that some of the concerns raised by local residents and Ward Councillors may be resolved with provision of CCTV installed in consultation with Dorset Police, to cover the whole of the licensable area, as this should assist staff in keeping control and effectively managing the area where customers may be queueing to purchase alcohol and sitting to consume the alcohol. It should also deter members of the public from behaving antisocially in this area. They were also of the view that the installation of a comprehensive CCTV system and the Challenge 25 condition will deter underage sales and the condition offered at the hearing to decant all alcohol into a biodegradable container will make it more straight forward to identify where alcohol has been purchased from, if there are issues with litter and underage sales.

In making its decision, the Sub-Committee have had regard to the section 182 Home Office guidance had regard to the spirit of the Licensing Act 2003 and that there is a presumption to grant an application as applied for, and of the case of *Thwaites PLC v Wirral Borough Magistrates' Court* 2008. There was very limited evidence

before the Sub-Committee of actual anti-social behaviour and crime that had occurred in the location of the premises, particularly between the licensable hours applied for in the application that would show that granting the licence will give rise to negative impact on the licensing objectives. The representations and submissions were mainly concerns speculating what may happen in the future should the application be granted, and the Sub-committee is unable to base its decision on such concerns. The Sub-Committee did not find any evidence to justify a refusal of the application.

The Sub-Committee welcomed the amendments made to the application during the meeting and is satisfied that if the premises is run responsibly and as set out in the operating schedule, together with the conditions imposed and those amended as offered by the applicant, that the premises should not undermine the licensing objectives.

Should there be a specific concern relating to the undermining of one or more of the licensing objectives caused by the premises in the future, the Licensing Act 2003 provides that a responsible authority or any other person may subsequently ask for a review of the premises licence

Voting - unanimous

41. Exclusion of Press and Public

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

42. Consideration of Suitability of Renewal of Public Carriage Driver Licence in the Bournemouth Zone

It was **RESOLVED** that in the absence of the applicant, this item be deferred to 11th November 2020, in order to give the applicant a second opportunity to attend the hearing. The Chairman requested that a letter be sent to the applicant to advise of the new hearing date and that it be made clear that if he did not attend for a second time the hearing would take place in his absence.

Voting – unanimous

The meeting ended at 12.41 pm

LICENSING COMMITTEE



Report subject	New BCP Council Sex Establishment Policy
Meeting date	10 December 2020
Status	Public Report
Executive summary	This is the first Sex Establishment Policy for BCP Council since the establishment, on the 1 st April 2019 of a single local government area for the now dissolved boroughs of Bournemouth, Christchurch and Poole.
Recommendations	<p>It is RECOMMENDED that:</p> <p>Members agree to the adoption of the legislation and agree a draft policy ready for public consultation to begin in January 2021.</p> <p>Members to consider and agree the proposed fees</p>
Reason for recommendations	<p>The now dissolved Bournemouth Borough Council and Borough of Poole have both previously published individual policies.</p> <p>The Local Government (Structural Changes) (General)(Amendment) Regulations 2018 provides that the Licensing Authority has 24 months from the date of reorganisation to prepare adopt and publish a Sex Establishment Policy for the new local government area.</p>

Portfolio Holder(s):	Councillor May Haines – Community Safety
Corporate Director	Kate Ryan – Corporate Director for Environment & Community
Report Authors	Nananka Randle – Licensing Manager
Wards	Council-wide
Classification	For Decision

Background

1. Sex Establishment premises are regulated and licensed under Schedule 3 of the Local Government (Miscellaneous) Provisions Act 1982. This legislation originally provided for the licensing of sex shops and sex cinemas before being amended by section 27 of the Policing and Crime Act 2009 to extend the scope of the schedule to include sexual entertainment venues.
2. Previously Bournemouth Borough Council and the Borough of Poole had adopted this legislation meaning anyone wishing to operate a sex establishment had to first obtain a licence from the respective Council. Both had published sex establishment policies

<https://www.bournemouth.gov.uk/Business/Licensing/documents/Sex-Establishments-Policy.pdf>

<https://www.poole.gov.uk/resources/assets/attachment/full/0/47761.odt>

3. In order to produce a new policy for the whole conurbation of Bournemouth, Christchurch and Poole, BCP Council need to adopt schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).
4. Reference is also made to Home office guidance - *Sexual Entertainment Venues* (Appendix 1) originally published for local authorities when schedule 3 was amended. This contains guidance on the process BCP Council will be required to follow in order to adopt the provisions of the legislation

Draft Policy

5. This will allow BCP Council to publish a policy to control and regulate the operation of Sex Establishments within the whole conurbation. This draft Policy is at Appendix 2
6. Sex Establishments falls into three categories; sex shops, sexual entertainment venues and sex cinemas
7. Chapters 10 and 11 of the draft policy relate to the setting out the characteristics of locations that are/not suitable for licences sex establishments. In addition BCP Council Licensing Authority can specify the number of each kind of sex establishments deemed appropriate in the defined locality relevant to the application at the time it is determined.
8. No sex establishment can operate unless it has obtained a licence from the Council – any such licence will contain conditions that will regulate how that

individual and category of sexual establishment may trade from the prospective premises.

9. Licences for sexual entertainment venues are required for *“any premise at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”*. Relevant entertainment is defined under the Act.
10. In deciding whether entertainment is *“relevant entertainment”* we will consider the content of the entertainment to be provided at the premises before determining whether a sexual entertainment licence is required, but generally this will apply to:
 - a. lap dancing
 - b. pole dancing
 - c. table dancing
 - d. strip shows
 - e. peep shows
 - f. live sex shows
11. Under Section 17 of the Crime and Disorder Act 1998, local authorities must exercise its functions with due regard to the likely effect on, and of the need to do all it reasonably can, to prevent crime and disorder in their area.
12. This draft policy has due regard to the likely impact of such licences on related crime and disorder in the conurbation.

Fees

13. The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority.
14. The fees cannot be used to support enforcement activity against such premises.
15. Currently within BCP there are two sets of fees for the issuing of licences under this legislation and it is proposed to introduce a single set of fees. (Appendix 3)

Consultation

16. There is no provision within the legislation for public consultation however it is deemed good practice to seek the views of local people and business. As such it is proposed that public consultation will commence on 4th January for 28 days this will take place via the Councils Consultation team on the website and will be advertised via social media.
17. In addition, a link to the consultation will be emailed directly to all persons/bodies at Appendix 4. These persons/bodies have been identified as relevant interested parties such as local operators of SEV's within the conurbation.

Options Appraisal

Adopt the legislation through Full Council

18. Put forward a recommendation for Full Council to approve adoption of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009)

19. Full Council will then be required to pass a resolution in accordance with section 3.6 of the Home Office guidance.
20. Following this a public notice will be placed in the local newspaper for two consecutive weeks.

Approve the draft policy

21. Amend the draft policy as appropriate and agree the draft policy to be put forward to public consultation. Chapter 10 provides members with two options to consider local characteristics when determining any applications or setting limits on the number of SEV it considers acceptable in predefined localities.

Approve the BPC fee structure

22. Approve or amend the fees as proposed which are based on cost recovery for the service in line with the legislation guidance..

Summary of financial implications

23. Within the existing budget.

Summary of legal implications

24. If the legislation is not adopted the council cannot set any limit on the number of or the location for any Sexual Establishments within the conurbation.

Summary of human resources implications

25. This will be delivered as part of the existing Licensing Team

Summary of sustainability impact

26. Not applicable

Summary of public health implications

27. Not applicable

Summary of equality implications

28. An EINA is underway and will be submitted to Equalities team in due course.

Summary of risk assessment

29. Not applicable

Background papers

Local Government (Miscellaneous Provisions) Act 1982

<https://www.legislation.gov.uk/ukpga/1982/30>

Policing and Crime Act 2009

<https://www.legislation.gov.uk/ukpga/2009/26/section/27>

Appendices

Appendix 1 – Home Office Guidance – Sexual Entertainment Venues

Appendix 2– Draft BCP Council SEV Policy

Appendix 3 – Fees

Appendix 4- Consultation List

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Sexual Entertainment Venues

Guidance for England and Wales

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MINISTERIAL FOREWORD



In September 2008, the previous Home Secretary announced the Government's intention to give local people greater say over the number and location of lap dancing clubs in their area. This followed a consultation with local authorities which highlighted concerns that existing legislation did not give communities sufficient powers to control where lap dancing clubs were established.

In order to address these concerns, section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities in England and Wales the power to regulate such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

These new measures, which take effect on 6th April 2010 in England and on 8th May in Wales, will, if adopted by local authorities, give local people a greater say over where and how many lap dancing clubs open and operate in their neighbourhoods.

These are important reforms to further empower local communities and the purpose of this guidance is to provide advice to local authorities, operators, local people and other interested parties on the new measures introduced by section 27 and the associated secondary legislation.

Alan Campbell

A handwritten signature in dark ink that reads "Alan Campbell". The signature is written in a cursive style.

Parliamentary Under-Secretary of State for Crime Reduction

March 2010

INTRODUCTION

Definitions

1.1 In this guidance –

The “2009 Act” means the Policing and Crime Act 2009

The “1982 Act” means the Local Government (Miscellaneous Provisions) Act 1982

The “2003 Act” means the Licensing Act 2003

“Section 27” means section 27 of the Policing and Crime Act 2009

“Schedule 3” means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982

Policing and Crime Act 2009

1.2 Section 27 introduces a new category of sex establishment called ‘sexual entertainment venue’, which will allow local authorities to regulate lap dancing clubs and similar venues under Schedule 3.

1.3 Section 27 gives local authorities more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

The Guidance

1.4 The guidance is provided for local authorities carrying out their functions under Schedule 3, as amended by section 27. It will also be of use to operators, the police and the general public.

- 1.5 Interpretation of the relevant primary and secondary legislation is ultimately a matter for the courts. However, local authorities are encouraged to have regard to the guidance when exercising their functions (although there is no statutory requirement to do so) in order to promote best practice and consistency across England and Wales.
- 1.6 The guidance is composed of 3 sections. Section 2 focuses on the 2009 Act and the definition of ‘sexual entertainment venue’. Section 3 provides an explanation of the meaning and effect of Schedule 3 to the 1982 Act and section 4 provides guidance on the transitional provisions as set out in the transitional orders: *The Policing and Crime Act 2009 (Commencement No.1 and Transitional and Saving Provisions)(England) Order 2010* and the *Policing and Crime Act 2009 (Consequential Provisions)(England) Order 2010* and any equivalent orders made by Welsh Ministers in respect to Wales.
- 1.7 Apart from extending the scope of the 1982 Act to cover the licensing of sexual entertainment venues and removing the sex encounter establishment category in those local authority areas that adopt the new provisions, the 2009 Act and the associated secondary legislation makes only minor changes to the operation of Schedule 3.
- 1.8 Section 27 of, and Schedule 3 to, the 2009 Act come into force in England on 6th April as does the Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010. In Wales, the equivalent provisions come into force on 8th May 2010.

POLICING AND CRIME ACT 2009

Meaning of Sexual Entertainment Venue

- 2.1 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment' for the purposes of these provisions. A sexual entertainment venue is defined as *"any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer."*
- 2.2 The meaning of 'relevant entertainment' is *"any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)."* An audience can consist of just one person (e.g. where the entertainment takes place in private booths).
- 2.3 While local authorities should judge each case on its merits, we would expect that the definition of relevant entertainment would 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
- 2.4 The above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should only be treated as indicative. Ultimately, decisions to licence premises as sexual entertainment venues shall depend on the content of the entertainment provided and not the name it is given.

- 2.5 For the purposes of these provisions a premises includes any vessel, vehicle or stall but does not include a private dwelling to which the public are not admitted.

Nudity

- 2.6 It is important to note that although the definition of relevant entertainment makes reference to a 'live display of nudity', the mere fact that there is a display of nudity does not mean that a sex establishment licence will necessarily be required. For example, if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.
- 2.7 Paragraph 2A(14) of 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.

The Organiser

- 2.8 The relevant entertainment must be provided for the financial gain of the 'organiser' or 'entertainer'. The 'organiser' means 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 someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.
- 2.9 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.

Spontaneous Entertainment

- 2.10 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 may be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

Premises that are not sexual entertainment venues

- 2.11 Paragraph 2A(3) of Schedule 3 sets out those premises that are not sexual entertainment venues. These are:
- sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act);
 - premises which provide relevant entertainment on an infrequent basis. These are defined as premises where-
 - a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - b) no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
 - c) no such occasion has lasted longer than 24 hours.
 - other premises or types of performances or displays exempted by an order of the Secretary of State.
- 2.12 Premises which provide relevant entertainment on an infrequent basis will continue to be regulated under the 2003 Act, insofar as they are

providing regulated entertainment under that Act, either by virtue of a premises licence or club premises certificate issued under Part 3 or Part 4 or a temporary events notice issued under Part 5 of that Act. Any premises that provide relevant entertainment on more occasions, more frequently or for a longer period of time than is permitted under the exemption will be operating as a sexual entertainment venue and will have committed an offence under Schedule 3 unless they hold a sexual entertainment venue licence or the local authority has waived the requirement for such a licence.

Amendments to the Licensing Act 2003

- 2.13 Schedule 7 to the 2009 Act amends the 2003 Act 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 1982 Act) do not also require a premises licence, club premises certificate or temporary events notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act. However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment), they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the 2003 Act for those other activities, subject to any exceptions contained in that Act.
- 2.14 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.
- 2.15 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from

the definition of regulated entertainment in the 2003 Act. 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 to. (Nor will providing entertainment facilities for the purposes of the provision of relevant entertainment be regulated entertainment under the 2003 Act).

- 2.16 Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment venue licence but will instead need an appropriate authorisation under the 2003 Act, for example, to cover the performance of dance. The exemption from requirements of the 2003 Act for live music or the playing of recorded music which is integral to relevant entertainment does not apply to such venues.

Consultation with Local People

- 2.17 If a local authority has not made a resolution to adopt the provisions introduced by section 27 within one year of it coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.
- 2.18 The purpose of this duty is to ensure that local authorities consider the views of local people where, for whatever reason, they have not adopted the provisions.
- 2.19 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.
- 2.20 The 2009 Act is not prescriptive about how local authorities should consult with local people in order to comply with this duty. Local authorities have extensive experience of engaging with local people and will know what works best in their individual areas. Clearly, the Secretary of State expects that any consultation exercise carried out under this duty will be fair and meaningful. Local authorities should

seek to make any relevant information available to local people in order to inform their understanding and publish the outcomes of the consultation on the internet.

- 2.21 In practice, local authorities may decide to consult local people on this matter when they consult and involve local people on broader local priorities and crime and disorder or anti-social behaviour priorities as part of their work to develop Local Area Agreements/Local Delivery Agreements and crime and disorder strategies, as required under various existing duties, including, section 138 of the Local Government and Public Involvement in Health Act 2007 and regulation 12 of the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007. This will ensure that consultations are not onerous and form part of the ongoing engagement with local communities undertaken by all local authorities.
- 2.22 For the purposes of this duty 'local people' are defined as anyone who lives or works in the local authority area.

SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

The Appropriate Authority

- 3.1 The appropriate authority is responsible for determining applications for sex establishment licences. For the purposes of the 1982 Act 'appropriate authority' means the local authority which passed a resolution under section 2 of that Act to adopt Schedule 3 in their area. 'Local authority' means—
- (a) the council of a district (including a unitary County Council) or, in Wales, the principal council¹;
 - (b) the council of a London borough; and
 - (c) the Common Council of the City of London.

Committee or Sub-Committee

- 3.2 Functions under Schedule 3 are the responsibility of the full council of the appropriate authority, as defined above. 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.
- 3.3 An authority may delegate its functions to those who sit on its licensing committee set up to discharge licensing functions under the 2003 Act. However, when dealing with an application for a sex establishment licence, the members of the committee would not be acting as the licensing committee under the 2003 Act and would instead be exercising their functions under Schedule 3.

¹ See section 2 of the 1982 Act. Section 17 of the Local Government (Wales) Act 1994 provides that legislative references to district councils are to be interpreted as references to principal councils in Wales. Unitary County Councils have all the functions and powers of district councils.

Adopting the Provisions

- 3.4 Section 27 comes into force on 6th April 2010 in England and 8th May in Wales². On or following this date local authorities may resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in their area.
- 3.5 Although many local authorities will have already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by Section 27 will have effect in the local authority area. However, where a local authority has not resolved to adopt Schedule 3 to the 1982 Act before the coming into force of Section 27, the amendments made to Schedule 3 by section 27 will apply automatically if a resolution to adopt Schedule 3 is made subsequently (see Schedule 3 to the 2009 Act).
- 3.6 The procedure for local authorities to adopt Schedule 3 as amended by section 27 is set out in section 2 of the 1982 Act. Firstly, the local authority must pass a resolution specifying that Schedule 3 or, in the case of an authority where Schedule 3 is already in force, the amendments made by section 27 to that Schedule, shall apply to their area and the day on which it or they shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed.
- 3.7 The local authority shall publish notice that they have passed a resolution under section 2 of the 1982 Act or (in cases where Schedule 3 is already in force but the local authority is adopting the amendments made by section 27) paragraph 2(2) of Schedule 3 to the 2009 Act for two consecutive weeks in a local newspaper that is circulated in their area. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the

² Section 27 (11) was brought into force on 2nd March 2010 but only for the purpose of making the transitional orders.

local authority's area. The notice should state the general effect of Schedule 3.

- 3.8 While there is no statutory duty to do so, prior to deciding whether to pass a resolution, local authorities may, as a matter of good practice, wish to seek the views of local people and businesses. The Secretary of State also encourages local authorities to engage with known sexual entertainment venues at the earliest possible opportunity once a decision to adopt the provisions has been made, to ensure affected businesses are aware of what action they will need to take in order to comply with the new regime.

Requirement for a Sex Establishment Licence

- 3.9 Any person wishing to operate a sex establishment as defined by Schedule 3 requires a sex establishment licence, unless the requirement for a licence has been waived by the appropriate authority.
- 3.10 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.

Premises that are deemed to be Sexual Entertainment Venues

- 3.11 Paragraph 27A of Schedule 3 deems premises with licences to operate as sexual entertainment venues to be sexual entertainment venues whilst their licence remains in force, irrespective of how frequently they are or have been providing relevant entertainment. This remains the case even if premises operate within the exemption for infrequent events.

- 3.12 If an operator with a sexual entertainment venue licence is operating within the exemption for infrequent events and no longer wants their premises to be treated as a sexual entertainment venue (e.g. because they are no longer operating as a lap dancing club) they may write to the relevant local authority to request that their licence be cancelled. Upon receiving such a request from a licence-holder a local authority must cancel the licence in question.

Notices

- 3.13 Applicants for a sex 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 7 days after the date the application is made.
- 3.14 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 day beginning with the date the applications was made.
- 3.15 All notices should be in the form prescribed by the appropriate authority 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.
- 3.16 There are similar notification requirements for applications made under the 2003 Act. Where an applicant is making an application under both Schedule 3 and the 2003 Act at the same time they may wish to combine these requirements where permitted.

Application Forms

- 3.17 Unlike the 2003 Act there is no prescribed application form for an application made under Schedule 3 to the 1982 Act. However, the application must be in writing and contain the details set out in paragraph 10 of Schedule 3 along with such other details as the

appropriate authority may reasonably require. Local authorities must provide for applications to be made electronically and may produce and publish recommended application forms for sex establishment licences setting out all the details required.

Single Point of Contact

- 3.18 Following amendments to sub-paragraph 10(14) made by the Provision of Services Regulations 2009, where an application for the grant, renewal or transfer of a licence is made by means of a relevant electronic facility it will be the responsibility of the appropriate authority to send a copy of an application to the chief officer of police, not later than 7 days after the date the application is received.
- 3.19 Where an application is made by any other means the responsibility to send a copy of the application to the chief officer of police within 7 days of the application being made will remain the responsibility of the applicant.
- 3.20 For the purpose of Schedule 3 a relevant electronic facility means the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009 or any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.

Fees

- 3.21 Schedule 3 to the 1982 Act states that an application for the grant, renewal, variations or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authorities, but does not expand on what would be considered to be reasonable.
- 3.22 However, local authorities should have regard to the following documents when determining their fee: *The European Services*

Directive: Guidance for Local Authorities³ and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees within the service sector.⁴

Objections

- 3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values⁵ and local authorities should not 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.
- 3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

- 3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.
- 3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no

³ <http://www.berr.gov.uk/files/file50026.pdf>

⁴ www.lacors.gov.uk

⁵ R v Newcastle upon Tyne City Council ex parte The Christian Institute [2001] B.L.G.R. 165

obligation to offer an oral hearing to objectors, they may do so at their discretion. 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.⁶

Refusal of a Licence

3.27 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 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.

3.28 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;

⁶ R v Plymouth City Council v Quietlynn [1998] Q.B. 114.

- (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.

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

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.⁷

3.31 The Provision of Services Regulations 2009⁸ amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to 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

⁷ *Belfast City Council v Miss Behavin’ Ltd* (Northern Ireland) (2007) [2007] UKHL 19

⁸ Regulation 47

regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

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

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.⁹

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding that two sex establishments 200 miles away from one another were in the same

⁹ See *R v Peterborough City Council ex parte Quietlynn* 85 L.G.R. 249 for further guidance.

locality. Case law also indicates that a relevant locality cannot be an entire local authority area or an entire town or city.¹⁰

- 3.37 Once the appropriate authority 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.
- 3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

- 3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.
- 3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:
- The hours of opening and closing
 - Displays and advertisements on or in sex establishments
 - The visibility of the interior of a sex establishment to passers-by
 - Any change of use from one kind of sex establishment to another

¹⁰ R v Peterborough City Council ex parte Quietlynn 85 L.G.R. 249

- 3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.
- 3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on the each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licences or clubs premises certificate and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

Duration of Licences

- 3.43 Licences for sex establishments can be granted for up to one year.

Appeals

- 3.44 In the event that the appropriate authority refuses an application for the grant, renewal or transfer of a sex establishment licence the applicant may appeal the decision in a magistrates' court, unless the application was refused under 12(3)(c) or (d), in which case the applicant can only challenge the refusal by way of judicial review.

Licensing Policies

- 3.45 While local authorities are not required to publish a licensing policy relating to sex establishments they can do so if they wish as long as it

does not prevent any individual application from being considered on its merits at the time the application is made.¹¹

- 3.46 A licensing policy for sex establishments might include statements about where local authorities are likely to consider to be appropriate or inappropriate locations for such venues. This could be set out in general terms by reference to a particular type of premises, such as a school or place of worship, or more specifically, by reference to a defined locality.
- 3.47 Local authorities could also use a licensing policy to indicate how many sex establishments, or sex establishments of a particular kind, they consider to be appropriate for a particular locality.
- 3.48 Local authorities can also produce different policies or a separate set of criteria for different types of sex establishments. This might be appropriate to reflect distinctions between the operating requirements of different sex establishments or the fact that the location that a local authority considers appropriate for a sex shop may be different to that of a sexual entertainment venue.

Offences

- 3.49 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that Schedule and include:
- knowingly causing or permitting the use of any premises as a sex establishment without a licence;
 - being the holder of a licence, knowingly employing a person in a sex establishment who is disqualified from holding a licence;
 - being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;
 - being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable

¹¹ R v Peterborough City Council ex parte Quietlynn Ltd (1986) 85 LGR 249

excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;

- being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 to enter the establishment
- being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.

3.50 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.

3.51 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty to this offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Provisions Relating to Existing Premises

3.52 Where a local authority resolves that Schedule 3 apply in their area having not previously made such a resolution, paragraphs 28 and 29 will have effect for the purpose of sex shop, sex cinemas and hostess bars, but will not have effect for the purpose of sexual entertainment venues. The transitional provisions relating to sexual entertainment venues are explained in part 4 of this guidance.

The Services Directive

3.53 Schedule 3 to the 1982 Act constitutes an authorisation scheme under Article 9 of the EU Services Directive 2006/123/EC (“the Directive”) which was implemented in the UK by the Provision of Services Regulations 2009 (“2009 Regulations”), which came into force on 28th December 2009. Local authorities must ensure they comply with the Regulations when applying the licensing provisions in Schedule 3.

3.54 The Department of Business, Innovation and Skills (BIS) has produced guidance for both businesses and local authorities to assist in

understanding the impact of the Directive and 2009 Regulations and what service providers and relevant authorities must do in order to comply. Both guidance documents can be found on the BIS website: <http://www.berr.gov.uk/whatwedo/europeandtrade/europe/services-directive/page9583.html>

- 3.55 In particular, the 2009 Regulations may affect the way in which local authorities set application fees, process applications and grant licences.

TRANSITIONAL PROVISIONS

- 4.1 This section provides guidance on the transitional provisions as set out in the *Policing and Crime Act 2009 (Commencement No.1, and Transitional and Saving Provisions)(England) Order 2010* (“the *Transitional Order*”) and the *Policing and Crime Act 2009 (Consequential Provisions)(England) Order 2010* (“the *Consequential Order*”) and the equivalent orders made by Welsh Ministers for Wales.

Transitional Period

- 4.2 The ‘transitional period’ will last for 12-months beginning with the date that the local authority resolves that Schedule 3 as amended by the 2009 Act will come into force in their area (‘the 1st appointed day’). Six months following the 1st appointed day will be known as the ‘2nd appointed day’ and the day on which the transitional period ends will be known as the ‘3rd appointed day’.
- 4.3 The appointed days will vary across local authority areas depending on when individual local authorities resolve that the provisions will come into force in their area.

Existing Operators

- 4.4 To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a 2003 Act licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later.

- 4.5 “Preparatory work” refers to work carried out by an operator, such as a refurbishment or refit, in order that they can use the premises as a sexual entertainment venue in the future. The operator will have been granted a 2003 Act licence before the 1st appointed day but will not have used the premises as a sexual entertainment venue by that date. It is likely that such operators will be known to a local authority. However, where a dispute arises between a local authority and an licence-holder over whether the licence-holder qualifies as an existing operator by virtue of this provision the local authority will need to seek evidence from the licence-holder to demonstrate that they clearly intended to operate a sexual entertainment venue in the future and work had been done to achieve this end.
- 4.6 For the purposes of the Transitional Order a “2003 Act Licence” means a premises licence or club premises certificate under which it is lawful to provide relevant entertainment.

New Applicants

- 4.7 New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence.

Determining Applications Received On or Before the 2nd Appointed Day

- 4.8 Applicants will be able to submit their application for a sexual entertainment venue from the 1st appointed day onwards.

- 4.9 As the appropriate authority is able to refuse applications having regard to the number of sex establishment they consider appropriate for a particular locality, all applications made on or after the 1st appointed day but on or before the 2nd appointed day shall be considered together. This will ensure that applicants are given sufficient time to submit their application and all applications received on or before the 2nd appointed day are considered on their individual merit and not on a first come first serve basis.
- 4.10 No applications shall be determined before the 2nd appointed day. After the 2nd appointed day the appropriate authority shall decide what if any licences should be granted. If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence, it will not take effect until the 3rd appointed day, up to which point they will be allowed to continue to operate under their existing premises licence or club premises certificate.

Determining Applications Received After the 2nd Appointed Day

- 4.11 Applications made after the 2nd appointed day shall be considered when they are made but only once all applications made on or before that date have been determined. However, reference to determination here does not include references to the determination of any appeal against the refusal of a licence.
- 4.12 As with applications received on or before the 2nd appointed day, licences granted to new applicants shall take effect immediately and licences granted to existing operators shall take effect from the 3rd appointed day or, if later, the date the application is determined.

Outstanding Applications

- 4.13 Local authorities should attempt where possible to determine outstanding applications made under the 2003 Act, which include an application for the provision of relevant entertainment, before the date

that Schedule 3 as amended by the 2009 Act comes into force in their area.

- 4.14 Where it has not been possible to determine application before the 1st appointed day, local authorities should advise applicants that they will need to submit an application for a sex establishment licence as set out in Schedule 3 if they wish to provide relevant entertainment. From the 1st appointed day onwards outstanding applicants shall be dealt with as though they are new applicants.

Existing Licence Conditions

- 4.15 In many cases licences granted under the 2003 Act to existing operators will contain conditions that relate expressly and exclusively to the provision of relevant entertainment. Such a condition might prohibit contact between a performer and customer during a lap dance. In these cases, in order to avoid duplication, where conditions on premises licences or club premises certificates relate only to the provision of relevant entertainment, they shall be read as if they were deleted from the 3rd appointed day onwards.
- 4.16 In cases where conditions on a premises licence or clubs premises certificate are inconsistent with, and less onerous than, the conditions in the licence granted under the 1982 Act they shall likewise be read as though they have been deleted.
- 4.17 Where a local authority decides to grant a sex establishment licence to an existing operator, who is subject to conditions on their existing premises licence or club premises certificate that relate expressly to the provision of relevant entertainment, they may wish to replicate the existing conditions on the new sex establishment licence if they believe that the existing conditions are sufficient. However, they could equally decide to impose new conditions consistent with Schedule 3 if they believe that new or additional conditions are necessary.

- 4.18 Although the Transitional Order does not require redundant conditions to be physically removed from a premises licence or club premises certificate, operators and local authorities may agree that this is desirable in order to clarify the operator's legal obligations. Such changes can be made via the minor variations procedure under section 41A of the 2003 Act.

ECHR Considerations

- 4.19 The Transitional Order allows local authorities to refuse applications, whether they are from existing operators or new applicants, on one or more grounds set out in paragraph 12 of Schedule 3. When making such decisions, local authorities must take into account any rights the existing operators may have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).
- 4.20 In light of the leading case of *Belfast City Council v Miss Behavin' Ltd* (Northern Ireland)¹² it would be prudent for local authorities to assume that freedom of expression includes the right to use particular premises as sexual entertainment venues and that a person who is denied the right to use his premises as a sexual entertainment venue where he already has a licence to do so under the 2003 Act (or in future under the 1982 Act) has been deprived of possessions. (Some Lords did not decide this point or disagreed that such rights were engaged and therefore it would still be open to local authorities to argue that such rights were not engaged in a particular case). However, in any event, the House of Lords were agreed that such rights would only be engaged at a low level. This led Lord Hoffman to say that if the local authority exercises its powers rationally and in accordance with the purposes of the statutory provisions, it would require very unusual facts for it to amount to a disproportionate restriction on Convention rights.

¹² [2007] UKHL 19

- 4.21 Nevertheless, local authorities would be well advised to consider whether any interference with the applicant's rights under Article 10 or Article 1, Protocol 1 of the European Convention on Human Rights is necessary and proportionate for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, Protocol 1, can be justified in the general interest.

Changes to Licensing Policies

- 4.22 Many local authorities who have already adopted Schedule 3 will have published a licensing policy for sex establishments. Such policies may provide a useful guide to potential applicants about whether a particular application is likely to be successful or not.
- 4.23 Upon resolving to adopt the sexual entertainment venue provisions introduced by the 2009 Act, local authorities should ensure that their licensing policies for sex establishments are up to date and reflect the changes introduced by Section 27. This could mean updating existing policies or producing a policy specific to regulation of sexual entertainment venues.

London

Sex Encounter Establishments

- 4.24 London local authorities which have adopted Schedule 3 to the 1982 Act as amended by the Greater London Council (General Powers) Act 1986 are able to regulate sex encounter establishments. However, under sub-paragraph 3A(i) premises that hold a premises licence or club premises certificate for the provision of regulated entertainment or late night refreshment are not regarded as sex encounter establishments. This means that, in practice, there are very few, if any, premises that are licensed as sex encounter establishments.

- 4.25 Therefore, the transitional provisions set out that where a local authority, which has previously adopted provisions to regulate sex encounter establishments, passes a resolution to adopt Schedule 3, as amended by section 27, the existing sex encounter establishment category will be replaced by the new sexual entertainment venue category.
- 4.26 In these circumstances, an existing sex encounter establishment licence will be treated as though it had been granted under the new sexual entertainment venue regime with any terms, conditions and restrictions carried over.

Hostess Bars

- 4.27 The hostess bar category of sex establishment, as introduced by section 33 of the London Local Authorities Act 2007, is largely unaffected by the 2009 Act provisions.
- 4.28 In cases where a London local authority has already resolved that the hostess bar category has effect in their area, they will be able to retain this category after the amendments made by the 2009 Act have been adopted and the sex encounter establishment category has been repealed, subject to the amendments made to Schedule 3 by the 2009 Act. Where London local authorities have not adopted the sexual entertainment venue provisions, it will still be open for them to resolve to adopt the hostess bar category after the 2009 Act provisions have been adopted without having to adopt the sex encounter establishment category.

Soliciting for Custom

- 4.29 Under Section 22 of the London Local Authorities Act 2004, as amended by Section 72 of the London Local Authorities Act 2007, it is an offence in London to solicit for custom for a sex establishment. However, paragraph 2A provides a defence if the premises concerned are licensed under Part 3 of the 2003 Act.

- 4.30 When a London local authority resolves to adopt the provisions introduced by Section 27, it will be a defence if the premises are licensed as a sexual entertainment venue under Schedule 3 of the 1982 Act or are operating lawfully under a 2003 Act licence during the transitional period at the time of the alleged offence.

ANNEX A: GUIDE TO TRANSITIONAL PERIOD AND EXISTING OPERATORS

Appointed Days

1st Appointed Day

The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

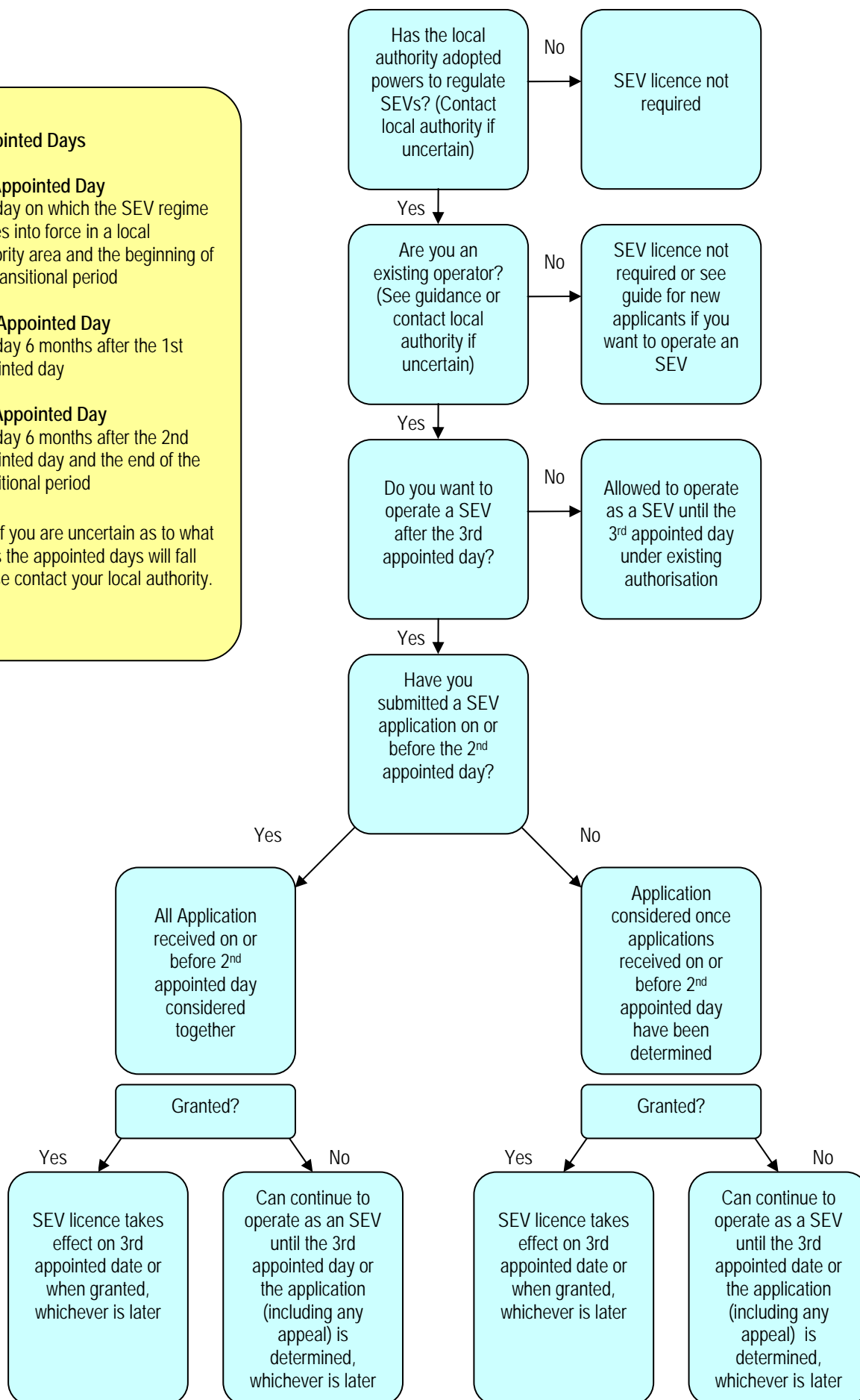
2nd Appointed Day

The day 6 months after the 1st appointed day

3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period

NB: If you are uncertain as to what dates the appointed days will fall please contact your local authority.



ANNEX B: GUIDE TO TRANSITIONAL PERIOD AND NEW APPLICANTS

Appointed Days

1st Appointed Day

The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

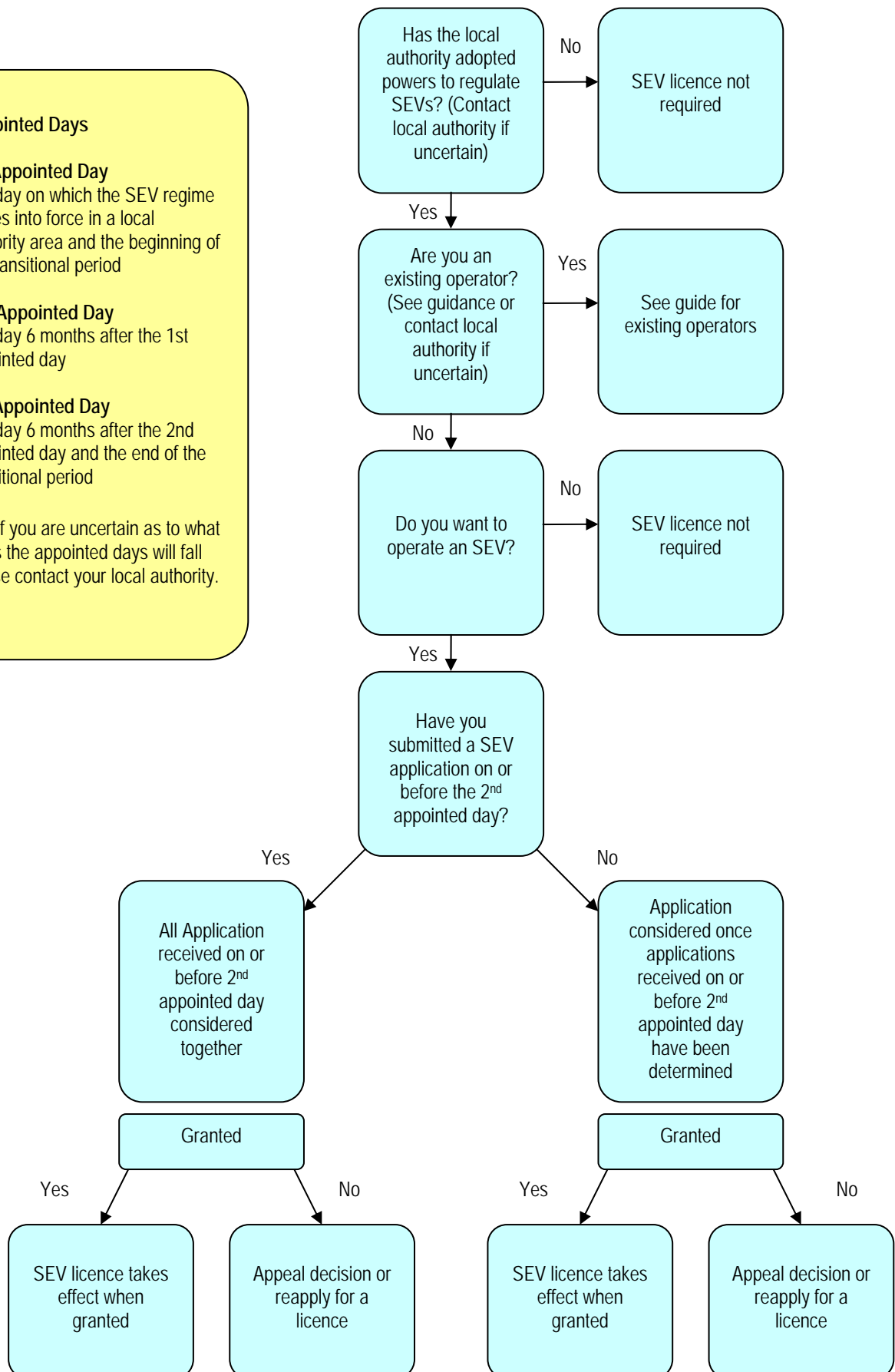
2nd Appointed Day

The day 6 months after the 1st appointed day

3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period

NB: If you are uncertain as to what dates the appointed days will fall please contact your local authority.



Sex Establishment Policy

Incorporating Sexual Entertainment Venues, Sex Shops and Sex Cinemas

Date November 2020

DRAFT

Licensing

Author: Nananka Randle
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Review Date: 2025



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1. Purpose Statement

- 1.1 This document sets out BCP Councils policy regarding the regulation of sex shop, sex cinemas and sexual entertainment venue licensing.
- 1.2 The Policy provides advice to applicants about the procedure and approach to take when making an application and aims to ensure that sex establishments in the BCP Council area operate in a safe, fair and discreet manner and are sensitive to the local area in which they are situated.
- 1.3 The policy is prepared under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.4 Section 2 of The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 to introduce a new classification of sex establishment, namely sexual entertainment venues.
- 1.5 BCP Council approved the policy relating to sex establishments on xx-xx-xxxx and delegated its statutory functions in full to the Licensing Committee and Licensing Sub-Committee as directed.
- 1.6 BCP Council does not take a moral stand in adopting this policy; it recognises that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. BCP Council will, as a licensing authority, administer the licensing regime in accordance with the law.

2. Who the policy applies to

- 2.1 BCP Council has adopted the amended provisions of Schedule 3 to regulate the number of sexual entertainment venues and address any local concerns about this kind of entertainment. Section 27 enables the BCP Licensing Authority to consider a wide range of community interests in determining whether to grant a licence and to manage more effectively those premises that are licensed.
- 2.2 BCP Licensing Authority expects the manager, owner or other person who is responsible for the organisation or management of the sexual entertainment, or the premises, to manage and regulate the operation of such entertainment and venues properly.

3. This policy replaces

- 3.1 This policy replaces the previous Sex Establishment Policies that covered Bournemouth Borough Council and The Borough of Poole.

4. Approval process

- 4.1 BCP Council as Licensing Authority delegated the Licensing Committee to oversee the development and review of its Sex Establishment Policy. Once finalised the policy was presented to the Full Council for adoption.
- 4.2 The Sex Establishment Policy will be kept under review and the Licensing Committee may make any revisions to it as it considers appropriate. A full review will be carried out every 5 years.

5. Links to Council Strategies

- 5.1 This policy supports the BCP Council Core Strategy.
- 5.2 During the preparation of this policy document due consideration has been given to the following Key Council Strategies:
- Corporate Strategy and Delivery Plan
 - Digital Strategy
 - Health & Wellbeing Strategy
 - Safeguarding Strategy
 - Communities Engagement Strategy
 - Crime & Disorder Reduction Strategy
 - Equality & Diversity

6. Background information

- 6.1 BCP Council area includes the Bournemouth, Christchurch and Poole area, is located in Dorset on the Jurassic Coast. It is the 12th largest council in England with a population of approximately 400,000 residents. It is predominantly urban with associated suburban areas and open spaces, parks and gardens.
- 6.2 It has long established road and rail links to London, the Midlands and the South West and benefits from an international airport. It has three Universities, an innovative and business focused college and business strengths in the creative, digital, finance, aerospace, marine and environmental technology sectors.
- 6.3 It is one of the country's main holiday destinations and benefits from 15 miles of coastline with world recognised Blue Flag beaches. It is renowned for its water sports, historic quays, music and arts festivals and its annual air festival which attracts over a million people a year to the event.
- 6.4 The area offers a vibrant mix of entertainment facilities for residents and visitors alike with established theatres, restaurants, cinemas, concert venues, museums and historic sites. The entertainment economy is well served with a wide variety of restaurants, pubs, bars and clubs.

7. Policy Consultation

- 7.1 In preparing this policy BCP Licensing Authority has consulted with and considered the views of the following range of people and organisations and has regard to the guidance issued by the Home Office.
- 7.2 Consultation on this policy took place with:
- the Chief Constable of Dorset Police
 - one or more persons who appear to BCP Council to represent the interests of persons carrying on or proposing to carry on the business of a sex establishment in the Council area
 - one or more persons who appear to BCP Council to represent the interests of persons to be employed either as performers or otherwise in the business of a sex establishment in the Council area

- one or more persons who appear to BCP Council to represent the interests of persons likely to be affected by or otherwise have an interest in the policy, including the Planning Authority, Fire and Rescue Authority, Community Safety, Dorset Public Health, Environmental Protection and Child Protection
- interested parties such as resident associations, trade associations and others as considered appropriate
- town and parish councils

8. Definitions

8.1 For the purposes of this policy, the following definitions will apply, provided that any subsequent amendments to the 1982 Act will also be taken into account:

- **The 1982 Act** refers to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- **The Policy** refers to the BCP Council Sex Establishments Policy.
- **Authorised officer** means an officer employed by BCP Council and authorised by the council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended.
- **The premises** means the premises, vehicle, vessel or stall that are the subject of the sex establishment licence or of the application for a sex establishment licence.
- **Sex cinema** means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures related to, or intended to stimulate or encourage, sexual activity, acts of force or restraint associated with sexual activity, or concerned primarily with the portrayal of or primarily deal with, or relate to, genital organs or excretory or urinary functions, but does not include a dwelling house to which the public is not admitted.
- **Sex shop** means any premises, vehicle, vessel or stall used for a business consisting 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.
- **Sex articles** include written or visual material such as sex magazines, books, or visual or audio recordings concerned with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage, sexual activity or acts of force and restraint associated with sexual activity, or which are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.
- **Sexual entertainment premises** – fall into one of three categories:
 - Sexual entertainment venues
 - sex shops
 - sex cinemas
- **Sexual entertainment venue** is defined in Paragraph 2A of Schedule 3 (as inserted by section 27) as ‘any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer’. ‘Relevant entertainment’ is defined as ‘any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)’. An audience can consist of just

one person, e.g. in a private booth. The category 'sexual entertainment venues' includes the following forms of entertainment as they are commonly understood:

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

This entertainment is defined as 'relevant entertainment'.

- **Relevant entertainment** means any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means). An audience can consist of just one person (e.g. Where the entertainment takes place in private booths).
- **Display of nudity** means, in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and in the case of a man, exposure of his pubic area, genitals or anus.
- **The organiser** means any person involved in the organisation or management of relevant entertainment.
- **Advertisement** means any word, letter, image, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of, advertisement or announcement.
- **Entertainer** means dancer, performer or other such person employed, or otherwise, to provide relevant entertainment.
- **Licence** means any sex establishment licence that the council can grant under the 1982 Act.
- **Licence holder** means the holder of a sex establishment licence.
- **Licensed area** means the part of the premises marked on the plan where licensable activities are to take place.
- **Responsible person** means the person nominated by the licence holder who has personal responsibility for and be present on the premises whilst the premises are open to the public. This may be the manager or the relief manager.

9. Other relevant legislation

- 9.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, taking into account local knowledge, this Policy and the guidance issued by the Home Office (Include link to website). Where it is necessary to depart from the guidance or this Policy the BCP Licensing Authority council will give clear reasons for doing so.
- 9.2 BCP Licensing Authority recognises the need to avoid so far as possible duplication with other regulatory regimes. The granting of a Sex Establishment Licence does not infringe or impact on the requirement of Licensees to comply with other relevant legislation.
- 9.3 The role of the Licensing Authority under the 1982 Act is to maintain a balance between the needs of the sexual entertainment industry and the needs of residents and others within of the Council area.

European Convention on Human Rights

9.4 The Human Rights Act 1998, incorporates the European Convention on Human Rights, and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. BCP Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights: -

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for his or her home and private life, including, for example, the right to a “good night’s sleep”;
- Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions. It should be noted that the Courts have held that a licence is a person’s possession;
- Article 10 the right to freedom of expression.

The Provision of Services Regulations

9.6 The Provision of Services Regulations 2009 implements the European Services Directive. These regulations ensure that any refusal of a licence is:

- non-discriminatory in regard to nationality
- necessary for reasons of public policy, public security, public health or the protection of the environment and
- proportionate with regard to the objective pursued by the legislation.

BCP Licensing Authority will consider these three issues in relation to the refusal of licence applications.

Crime and Disorder Act 1998

9.7 The Crime and Disorder Act 1998 places a duty on the Council to exercise its functions with due regard to:

- crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment)
- the misuse of drugs, alcohol and other substances
- re-offending in its area.

BCP Licensing Authority will have particular regard to the likely effect of the determination of licence applications on these issues and the need to do all that is reasonable to prevent them.

Equality Act 2010

9.8 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers, including licensing functions. BCP Licensing Authority will be mindful of this duty when determining all licensing applications, in due regard will be given to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

Planning

- 9.9 The use of premises is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation.
- 9.10 In general, all premises which are the subject of an application, should have the benefit of planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights. Failure to do so may result in objections and the licence being refused or granted subject to conditions which take account of the planning permissions in existence.
- 9.11 In addition, all new developments and premises which have been subject to structural alterations since 1994 should have building control approval in the form of a Building Regulations Completion Certificate. The onus will be on the applicant to demonstrate that any structural alterations have been approved by building control. Failure to do so may result in objections and the licence being refused or granted subject to conditions.
- 9.12 Any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct.

Modern Slavery Act 2015

- 9.13 The Modern Slavery Act 2015 puts a duty on the Council to notify the secretary of state, or where stated in regulations, another public authority, where there are reasonable grounds to believe that a person may be the victim of slavery or human trafficking.
- 9.14 BCP Licensing Authority will where incidence of slavery or human trafficking are found to be related to a sexual entertainment licensed premise will have particular regard to the severity of the offence when determining a licence application or request for the revocation of such licence.

10. Location of licensed premises

- 10.1 BCP Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in a potential fear of crime, anti-social behaviour, noise pollution and other disturbance to residents. However, BCP Licensing Authority are aware of the necessity to balance the needs of the community against the amenities of the local area.
- 10.2 Notwithstanding 10.1 above, while the BCP Licensing Authority have not imposed a limit on the number of premises that may be licensed in any area, and whilst treating each application on its own merits, BCP Licensing Authority will, with each application, consider the characteristics of the locality and consider whether the grant of the application would be inappropriate having regard to its proximity to:
- Residential premises
 - Premises which are sensitive because they are frequented by children, young persons or families including, but not limited to educational establishments, nurseries, playgroups, playgrounds, youth clubs and youth hostels
 - Shops used by or directed at families or children

- Premises sensitive for religious purposes for example, churches, mosques and temples
- Places and/or buildings of historical/cultural interest and tourist attractions
- Cultural facilities such as museums, theatres and cinemas
- Public leisure facilities such as leisure centres, parks and open spaces
- Community buildings such as community centres, libraries and drop in centres
- Places used by vulnerable persons such as day centres, hostels and other adult social care facilities
- Hospitals and other medical facilities
- Other sex establishments

10.3 It is not considered appropriate to define a precise distance from any of the above premises as sufficiently far enough away to make a sex establishment suitable and each case will be considered on its own merits and in light of any consultation undertaken.

10.4 BCP Licensing Authority acknowledges that the character of a locality is not something that remains static, but which can alter at any time or over a period of time. Its decision on an application will be based on its assessment of the character of a locality at the time an application is determined. BCP Licensing Authority take the view that 'locality' is where the premises that are the subject of the application are situated, including, but not beyond, their immediate vicinity.

AND/OR Licensing Committee to decide

Limiting the Number of Sex Establishments in Pre-Defined Localities

10.5 BCP Licensing Authority has decided to use its powers under Paragraph 12(3)(c) of Schedule 3 to define several 'relevant localities', and to establish how many sex establishments, or sex establishments of a particular kind, it considers appropriate in each such relevant locality. BCP Licensing Authority will determine each application in the context of the limit that it has set.

10.6 There are currently 2 licensed sex shops in Holdenhurst Road, north of Bournemouth Station, and BCP Licensing Authority considers that Holdenhurst Road from the junction with Northcote Road to the Richmond Park Road/Curzon Road junction is an appropriate location for no more than 2 sex establishments, being sex shops only.

10.7 There is currently 1 licensed sex shop in The Triangle. BCP Licensing Authority considers this area to be an appropriate location for no more than 1 sex establishment. This locality has become a more family orientated area, and BCP Licensing Authority does not consider this area to be appropriate for the location of any sexual entertainment venue.

10.8 There are currently 3 sexual entertainment venues in the Horseshoe Common area. BCP Licensing Authority considers that the appropriate number of such venues is no more than 3. BCP Licensing Authority does not consider this area to be an appropriate locality for any sex shop.

10.9 The horseshoe Common area is defined as:

- the north side of Old Christchurch Road from its junction with Yelverton Road to the west side of Lorne Park Road, and;
- the south side of Old Christchurch Road from its junction with Yelverton Road to the north side of Glen Fern Road;

- 10.10 BCP Licensing Authority does not consider any other area within the Borough an appropriate location for any sex establishment

11. The Character of the Relevant Locality

- 11.1 BCP Licensing Authority acknowledges that the character of a locality is not something that remains static, but which can alter at any time or over a period of time. Its decision on an application will be based on its assessment of the character of a locality at the time an application is determined. BCP Licensing Authority take the view that 'locality' is where the premises that are the subject of the application are situated, including, but not beyond, their immediate vicinity.
- 11.2 As a general rule, a locality whose character falls predominantly into one or more of the following categories will generally be considered inappropriate for the grant or renewal of a sex establishment licence:
- family and child oriented leisure or shopping areas, including the Pier Approach and seafront;
 - predominantly family residential areas, with or without retail, fast food etc outlets serving the local population;
- 11.3 In considering applications for the grant of a new licence, BCP Licensing Authority will also take account of the potential impact of the licensed activity on crime and disorder; and where there is already one or more sex establishment premises in the locality, the cumulative impact of an additional licensed sex establishment premises.

12. Layout Character and Condition

- 12.1 With regard to an application for the grant or renewal of a licence, BCP Licensing Authority will also take into account the layout, character or condition of the premises, vehicle, vessel or store in respect of which the application is made.
- 12.2 BCP Licensing Authority will, in considering applications for renewal, take into account past demonstrable adverse impact from the activity; and whether appropriate measures have been agreed and properly implemented by the applicant to mitigate any adverse impacts.

13. Application Process

- 13.1 An application for the grant, renewal, transfer or variation of a licence must be made in writing to BCP Licensing Authority on the prescribed application form. This includes electronic applications submitted by email.
- 13.2 Application forms, application guidance notes, and notices for public advertisement are available upon request from the Licensing Team at Licensing@bcpcouncil.gov.uk or on the Council website at www.bcpcouncil.gov.uk.

The address for applications is:

The Licensing Manager
Licensing Team
BCP Council ,Town Hall, Bourne Ave,
Bournemouth, BH2 6EB or via email licensing@bcpcouncil.gov.uk

- 13.3 Applicants for sex establishment licenses must give public notice of the application by publishing an advertisement in a local newspaper no later than 7 days after the date the application is made. A notice must also be displayed on or near the premises in a place

where members of the public can conveniently read it for a period of 21 days beginning with the date the application is made.

13.4 Where an application is made other than by means of a relevant electronic facility, the applicant must send a copy to Dorset Police within 7 days of the application being made.

13.5 Where an application is made by means of a relevant electronic facility, BCP Licensing Authority shall send a copy of the application to Dorset Police, no later than 7 days after the date the application is received.

Exemptions

13.6 Under the Local Government (Miscellaneous Provisions) Act 1982 there is an exemption for sexual entertainment venue premises which provide relevant entertainment on an infrequent basis. These are defined within paragraph 2A of Schedule 3 as inserted by section 27 of the Police and Crime Act 2009 as premises where –

- no relevant entertainment has been provided on no more than 11 occasions within a 12 month period;
- no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
- no such occasion has lasted longer than 24 hours
- other premises or types of performances or displays exempted by an order of the Secretary of State

Notices

13.7 The applicant must advertise the application in three ways:

- Advertisement in a local newspaper within 7 days of the application
- Advertise at the premises by way of a site notice for 21 consecutive days
- Notice of the application to be sent to the Chief Constable of Dorset Police within 7 days of the application

13.8 Proof that the applicant has advertised the application will be required as part of the application process.

Applicant suitability

13.9 BCP Licensing Authority will need to be satisfied that the applicant for a sex establishment licence is suitable to operate the business.

13.10 Applicants will be required to submit application forms which include a personal information form and a Disclosure and Barring Service (Standard DBS disclosure) issued within the last month. If an applicant is a company all directors will be required to submit a personal information form and a standard DBS disclosure. The cost of any criminal record checks will be paid by the applicant.

13.11 The applicants suitability will be checked using the above documentation and in consultation with Dorset Police. Applicants may also be asked to attend an interview to support their application.

13.12 The suitability of the applicant is important to ensure that the interests of the public are protected. BCP Licensing Authority will use the methods described above to ensure that the proposed operator:

- is honest

- has a clear understanding of the conditions that may be attached to the licence
- has a suitable business plan which will deliver compliance of the standard conditions
- has no unspent conviction of a nature that deem him/her unsuitable

13.13 Applications for a sex establishment licence for a sexual entertainment venue will also show they have:

- a clear code of conduct for customers
- a clear code of conduct for performers and
- a clear policy on pricing

13.14 BCP Licensing Authority will take all of these criteria into account when determining the licence. Non-compliance of one or more of the criteria will not necessarily exclude the operator from holding a sex establishment licence providing the applicant is able to prove to BCP Licensing Authority that the interest of the public is protected.

14. Refusal of Application

14.1 There are 4 types of application available to the applicant:

- New
- Renewal
- Transfer
- Variation (full or minor)

14.2 There are a number of mandatory grounds for refusing applications and these are set out in paragraph 12 (1) of Schedule 3. A licence must not be granted:

- to a person under the age of 18;
- 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;
- to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- to a body corporate which is not incorporated in an EEA State; or
- to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

14.3 The only discretionary grounds upon which BCP Licensing Authority may refuse an application are that the applicant for a new, renewal or transfer of a licence is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;

- that if the licence were to be granted, renewed or transferred, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- for new or renewal applications only, that the number of sex establishments or of sex establishments of a particular kind in the relevant locality at the time the application is determined is equal to or exceeds the number which BCP Licensing Authority considers is appropriate for that locality (Paragraph 12 (3)(c) of Schedule 3);
- for new or renewal applications only, that the grant of the licence would be inappropriate, having regard to:
 - the character of the relevant locality; or

- the use to which any premises in the vicinity are put; or
- the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made (Paragraph 12 (3)(d) of Schedule 3).

14.4 BCP Licensing Authority recognises that questions about the character of a locality and/or the use of a premises in the vicinity (when considering whether the grant or refusal of a licence would be inappropriate with reference to paragraph 12 (3)(d) of Schedule 3), must be decided on the facts and merits of the individual application at the time the application is determined.

14.5 The holder of a Licence may at any time apply for a variation of the terms, conditions or restrictions imposed on the licence. BCP Licensing Authority may make the variation specified in the application, or make any such variations as it thinks fit, or refuse the variation application.

15. Objections

15.1 Objectors can include individual residents, and/or residents' associations, community and/or trade associations. Councillors may also raise objections on their own behalf or can represent objectors. If the Councillor is also a member of the Licensing Committee, and either objects on his/her own behalf or represents an objector, he/she will not be allowed to determine the application.

15.2 Persons wishing to object to the application must submit a written representation (this can be by means of an electronic facility) of the general terms of the objection not later than 28 days after the date of the application.

15.3 Persons objecting should have regard to the statutory grounds for refusal, as set out in paragraph 6. BCP Licensing Authority does not have the right to, and will not, consider any morality issues relating to sex establishments. Consequently, objections stating that sex establishments should not be allowed on moral grounds will not be considered. Nor will objections that are frivolous or vexatious be considered. Where objections are rejected, the objector will be given a written reason.

15.4 Decisions on whether objections are on moral grounds, frivolous or vexatious will be made objectively by officers of the Council.

15.5 The names and address of objectors will not be disclosed to applicants or published in public reports in accordance with the Local Government (Miscellaneous Provisions) Act 1982. Such details will be made available to members of the Licensing Committee. Objectors will be invited to speak at the hearing, where their identity will be known to the applicant. Alternatively, they may choose to elect a spokesperson to speak on their behalf, such as their local ward Councillor.

15.6 Objections should:

- be made in writing (preferably in duplicate, unless submitted electronically);
- be in black ink on single sides of A4 paper;
- indicate the name and address of the person or organisation making the representation;
- indicate the premises to which the objection relates;
- indicate the proximity of the premises to the person making the objection. A sketch map or plan may be helpful to show this;
- clearly set out the reasons for making the objection.

15.7 BCP Licensing Authority will notify the applicant in writing of the general terms of any objection it receives within 28 days of the application.

15.8 BCP Licensing Authority will facilitate mediation between applicants and others who may make objections, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit.

16. Hearings

16.1 Applications for will be referred to the Licensing Committee or Licensing Sub-Committee for determination where objections have been received. In addition, at the discretion of a Council officer, any application may be referred to the Licensing Committee or Licensing Sub-Committee for determination.

16.2 The hearing shall be conducted in accordance with the Councils Hearings Procedure. The procedure may change at the discretion of the Chairman of the Licensing Committee.

16.3 Those who have made comments on an application shall be invited to attend a hearing and state their case to the Licensing Committee but will only be permitted to speak on matters relevant to their written representation to BCP Licensing Authority.

Determining an application

16.4 In determining licence applications under the 1982 Act BCP Licensing Authority will take into consideration the application before it, any comments made by the Chief Constable of Police and any objections received as well as local knowledge including local issues and cultural sensitivities.

16.5 In all cases the Licensing Committee reserves the right to consider each application on its own merit.

16.6 Every decision to refuse a licence made by the Licensing Committee or sub- committee will be accompanied by clear reasons for the decision.

Right of appeal

16.7 There are no rights of appeal for statutory authorities or persons who have objected to the grant of a sex establishment licence.

16.8 There is a right of appeal for applicants/licence holders in the following circumstances:

- refusal to grant a new sex establishment licence
- refusal to renew an existing sex establishment licence
- refusal to transfer an existing sex establishment licence
- refusal to vary an existing sex establishment licence
- imposition of conditions on a sex establishment licence
- revocation of a sex establishment licence

16.9 However, an appeal may not be lodged where the decision made by BCP Licensing Authority has been made on the basis that:

- the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality

- the grant is inappropriate, having regard:
 - a) to the character of the relevant locality
 - b) to the use to which any premises in the vicinity are put
 - c) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

16.10 Any appeal to the Magistrates' Court must be made within 21 days from the date on which the person is notified of the decision or became aware of the condition.

17. Period of Licence

17.1 A sex establishment licence will remain in force for up to one year, or for a shorter period as determined by BCP Licensing Authority .

18. Conditions

18.1 In granting an application, BCP Licensing Authority may attach such specific conditions as it considers appropriate, in accordance with paragraph 8 of schedule 3 of the 1982 Act, and standard terms and conditions in accordance with paragraph 13 of the 1982 Act.

18.2 BCP Licensing Authority will impose standard conditions on all licences. These conditions are attached at Appendix A.

18.3 Where it is reasonable and necessary to do so, the Licensing Committee or Sub Committee may impose additional conditions on a sex establishment licence or alter or omit some of the standard conditions from the sex establishment licence.

18.4 Any breaches of the conditions attached to the licence may result in the revocation of that licence.

19. Revocation

19.1 Should information be received by BCP Licensing Authority that circumstances have changed in such a way that the applicant would be deemed unsuitable or that the manager or beneficiary would be unsuitable should they be applying for a new licence, BCP Licensing Authority may revoke the sex establishment licence.

19.2 BCP Licensing Authority will not revoke a licence without first giving the holder of the licence the opportunity to make representation before a licensing sub-committee.

19.3 The licensee will be given a statement in writing of the reasons for revocation within 7 days of the requirement being made.

19.4 The revocation will take effect once the appeal period has expired, or if an appeal is lodged after the determination or abandonment of the appeal.

20. Waiver

20.1 Should BCP Licensing Authority decide that a licence would be unreasonable or inappropriate, it may waive the need for a licence, for example in the case of a medical book shop, sex clinic, in borderline cases, to correct errors or for minor or temporary events.

20.2 BCP Licensing Authority would only waive the need for a licence where the activity is low risk and/or temporary. However a waiver will not be considered in cases where a licence is reasonable and appropriate or where there is public interest.

20.3 Unsuccessful applications for waivers will be notified accordingly and provision will be made for them to make a formal application for a sex establishment licence.

21. Compliance

21.1 BCP Licensing Authority is responsible for the administration, compliance and enforcement of the licensing regime. The main enforcement role for BCP Licensing Authority in terms of the 1982 Act as amended will be to ensure compliance with the conditions placed upon the licence.

21.2 In carrying out its enforcement duties with regards to the inspection of premises; and the powers to institute criminal proceedings in respect of certain offences under the Act BCP Licensing Authority will endeavour to be:

- proportionate: regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
- accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- consistent: rules and standards must be joined up and implemented fairly;
- transparent: regulators should be open, and keep regulations simple and user friendly; and
- targeted: regulation should be focused on the problem, and minimise side effects.

21.3 BCP Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

21.4 BCP Licensing Authority recognises the interest of both residents and business and will work closely with partners to assist licence holders to comply with the law and the conditions attached to the licence. However proportionate and firm action will be taken against those who commit serious offences or consistently break the law or breach the conditions of the licence.

21.5 BCP Licensing Authority has set clear standards of service and performance that the public and business can expect. In particular an enforcement policy has been created that explains how the council will undertake its role and how the principles of effective enforcement will be achieved.

22. Further information

22.1 Further information relating to this policy can be found at the following sites:

- <https://www.bcpCouncil.gov.uk/Council-and-Democratic/Consultation-And-Research/Local-Data/Local-Data.aspx>
- <https://democracy.bcpCouncil.gov.uk/ieListMeetings.aspx?CommitteeId=288>
- <https://www.bcpCouncil.gov.uk/About-the-council/Equality-diversity-and-inclusion/Our-commitment-to-equality-diversity-and-inclusion.aspx>

Bournemouth Christchurch and Poole Council

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 as amended by the Policing and Crime Act 2009

Regulations made under Paragraph 13 of Schedule 3 to the 1982 Act prescribing standard conditions applicable to licences for sex establishments effective from the appointed day.

Section A

General condition for Sexual Establishments

1. In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
2. 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 enactment, byelaw, order or regulation other than Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
3. A refusals register shall be kept and made available for inspection by an authorised officer of the Council or Police Officer.
4. The Premises shall be maintained in good repair and condition.
5. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.
6. The licence holder shall ensure a copy of the licence and of these Regulations are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended and shall be reproduced to the same scale as those issued by the Council.
7. The copy of the licence required to be displayed shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition.

Section B

Sexual Entertainment Venues – Standard Conditions

Conduct and Management

1. Where the licence holder 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 notify the Council in writing 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 of writing from the Council.
2. The licence holder shall retain control over all portions of the premises as defined on the approved premises plans, and shall not let, licence or part with possession of any part of the licensed premises.

3. The licence holder shall nominate a Duty Manager for the premises on each occasion they are open to the public and being used for the purposes of providing relevant entertainment.
4. The licence holder shall ensure the name of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Council officers carrying out an inspection of the premises, or otherwise by persons using the venue.
5. The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.
6. The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
7. Door supervisors registered with the Security Industry Authority shall be provided at the premises in sufficient numbers to ensure that:
 - each entrance and exit at the premises used by the public are manned by at least two door supervisors
 - all public areas of the premises are continually monitored to ensure the Dancers and Customers Codes of Conduct and any licence conditions are being complied with
 - persons breaching the Customers Code of Conduct or otherwise behaving in a disorderly manner can be safely ejected from the premises
8. No person under the age of 18 shall be admitted to the licensed premises whilst the sex establishment licence is being used. A notice advising no admittance to persons under the age of 18 shall be prominently displayed at each public entrance to the premises.
9. No person under the age of 18 shall be employed to work at the licensed premises in any capacity, or allowed to work in the premises on a self-employed basis.
10. The premises shall follow the 'Think 25' initiative, whereby any customer who enters the premises who appears to be under the age of 25 shall be asked for age identification. The only ID accepted shall be photo identification such as a picture driving licence, a passport or a PASS ID.
11. An incident / refusal log book shall be maintained at the premises. The incident / refusal log shall, as a minimum, give details of:
 - Any persons refused entry to the premises and the reason for refusal
 - Any persons ejected from the premises and the reason for ejection
 - Any inappropriate behaviour by customers
 - Any incidents of crime or disorder
 - Any complaints made by customers, dancers or staff
12. The incident / refusal log shall show the date, the time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved / name of dancer or staff member where appropriate and brief description of the incident and any action taken by staff.
13. The incident / refusal log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the procedure to follow.

14. The licence holder and/or Duty Manager shall ensure the incident / refusal log is checked periodically, at least once a week, to ensure the log is being effectively used.
15. The incident / refusal log shall be made available for inspection to the Police and or an authorised officer of the council on request.
16. The licence holder and/or Duty Manager shall ensure that the public is not admitted to any part or parts of the premises other than those, which have been approved by the Council.
17. No part of the licensed premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.
18. There shall be no touting for business for the premises by way of persons holding advertising boards, branded vehicles or personal solicitation. All advertising must comply with condition 24 below.

Advertising, Premises Appearance and Layout

19. The Council shall not permit the display of any form of imagery or photographs that the Council believes could be construed as offensive to public decency.
20. No display or advertisement of the activities permitted by the sex establishment licence shall be exhibited so as to be visible from outside of the premises except:
 - any notice required by law, by these regulations, or by any condition of the sex establishment licence granted by the Council
 - the name of the premises as specified in the sex establishment licence
 - the hours of opening of the premises
 - notice of any admission charge to the premises
 - unless the Council has given its prior consent in writing that such display or advertisement may be used.
21. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
22. No window shall contain any sign, advertising material, goods or display without the written consent of the Council.
23. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall be made except with the prior approval of the Council.
24. The layout of the premises shall be such that performers cannot be seen from outside the premises.
25. Performers may not stand in lobby, reception or foyer areas or outside the premises entrance for the purposes of greeting customers or encouraging customers to enter the venue.

CCTV

26. A suitable CCTV system shall be installed and maintained at the premises in accordance with the requirements of Dorset Police.

27. The system shall be operational at all times the premises is open to members of the public and will cover all public areas including booths and VIP areas.
28. The positioning of the CCTV cameras will be agreed with Dorset Police prior to installation and will comply with that agreement at all times. Changes to the CCTV system and / or positioning of the cameras may only be made with the written consent of Dorset Police.
29. The licence holder shall retain recordings for 28 days, which will be delivered to the Police on request (subject to Data Protection Act 2018).
30. At all times that the premises are open to the public there will be a member of staff on duty who is conversant with the operating of the CCTV system and who is able to download immediately any footage requested by the Police, an officer from the Licensing Authority or an authorised agent.

Requirements for a code of Conduct for Dancers

31. There shall be a Code of Conduct for Dancers in place at the venue that has been agreed in writing by the licence holder and the Council.
32. The Code of Conduct shall, as a minimum, contain the conditions set out in the section below entitled "Code of Conduct for Dancers".
33. No change shall be made to the Dancer's Code of Conduct without the prior written consent of the Council.
34. The Dancers Code of Conduct must state that dancers who do not comply with the Code of Conduct will face disciplinary proceedings.
35. The licence holder shall require all dancers to sign an acknowledgement that they have received a copy of the Dancer's Code of Conduct and have read and understood its contents and shall comply with such Code of Conduct at all times they are working at the premises as dancers.
36. The licence holder shall retain original records showing that each dancer has signed to acknowledge receipt of the Dancer's Code of Conduct.
37. The premises management and staff (including security staff) shall be aware of the content of the Dancer's Code of Conduct and shall ensure it is complied with.

Requirements for a Code of Conduct for Customers

38. There shall be a Code of Conduct for Customers in place at the venue that has been agreed in writing by the licence holder and the Council.
39. The Code of Conduct shall, as a minimum, contain the conditions set out in the section below entitled "Code of Conduct for Customers".
40. The Code of Conduct for Customers shall be displayed in prominent positions throughout the premises where it is visible to all customers.
41. No change shall be made to the Customers Code of Conduct without the prior written consent of the Council.

42. The Customer's Code of Conduct must state that customers who do not comply with the Code of Conduct will be ejected from the premises.
43. The premises management and staff (including security staff) shall be aware of the content of the Customer's Code of Conduct and shall ensure it is complied with.
44. Where a customer breaches the Customers Code of Conduct, this shall be recorded in the incident / refusals log.

Disciplinary Procedure

45. A disciplinary procedure shall be in place to deal with dancers who breach the Dancer's Code of Conduct. The disciplinary procedure shall be detailed in writing and a copy of it provided to each dancer who works at the premises.
46. The licence holder shall require all dancers to sign an acknowledgement that they have been provided with a copy of the house Disciplinary Procedure and have read and understood its contents.

Code of Conduct for Dancers

47. The Dancer's Code of Conduct shall include the following conditions as a minimum:
 - a. Dancers may not intentionally touch a customer during a performance
 - b. Dancers may not permit a customer to touch them during a performance
 - c. Dancers may not straddle the customer
 - d. If a customer attempts to touch or speak to a dancer inappropriately, the dancer shall stop the performance and advise the customer of the rules of the Code of Conduct. If the customer continues with their inappropriate behaviour, the dancer shall stop the performance and inform the management
 - e. If a customer engages in acts of masturbation or other sexual behaviour, the dancer shall cease the performance immediately and inform the premises management.
 - f. Dancers may not touch their own breasts, anus or genitals with their fingers, lips or tongue
 - g. Dancers may not intentionally touch the genitals, anus or breasts of another dancer, nor knowingly permit another dancer to touch their genitals, anus or breasts
 - h. Dancers may not perform any act which simulates masturbation, oral sex or sexual intercourse, including the insertion of any object, including their own finger, in to the anus or vagina
 - i. Dancers shall not solicit for gratuities or payment for sexual favours
 - j. Dancers shall not engage in any act of prostitution
 - k. Dancers may not be in the company of a customer unless it is in an area of the premises that is open to the public
 - l. Dancers shall not perform if under the influence of alcohol or drugs.
 - m. Dancers shall use the dressing room facilities provided for their exclusive use to change for their performance.
 - n. Dancers shall only use the smoking area provided specifically for their use.
 - o. Dancers shall only use the sanitary facilities specifically provided for their use.
 - p. Dancers shall not leave the premises or otherwise be visible outside the premises, including for smoking breaks, unless dressed in suitable attire
 - q. All dancers shall comply with this Code of Conduct. Any failure to adhere to the Code of Conduct shall render the dancer subject to the house Disciplinary Rules, a copy of which has been provided to each dancer.

Code of Conduct for Customers

48. The Customers Code of Conduct shall include the following conditions as a minimum:
- Customers may not touch dancers during a performance
 - Customers may not make lewd or offensive remarks to dancers
 - Customers may not harass or intimidate dancers
 - Customers may not ask dancers to perform any sexual favour
 - Customers may not perform acts of masturbation or indulge in other sexual behaviour
 - Any customer failing to adhere to the Customers Code of Conduct will be ejected from the premises

Staff welfare

49. Dancers under the age of 18 will not be permitted to work at the premises. All reasonable steps shall be taken to verify the age of the dancer such as the production of photo identification.
50. The licence holder shall ensure dancers have secure dressing rooms and facilities to secure valuables.
51. The licence holder shall ensure that there are sanitation facilities for the use solely of the dancers and other employees of the premises.
52. Each dancer shall be provided with an information pack which will include the following:
- A copy of relevant conditions attached to the Sex Establishment Licence
 - Details of any other conditions applied by the management of the premises
 - A copy of the Dancers Code of conduct
 - A copy of the Customers Code of Conduct
 - The premises Disciplinary Procedure Policy including any fining policy
 - Pricing policy
 - Details of HM Revenue and Customs, unions, trade organisations or other bodies that represent the interest of the dancers
57. The licence holder shall maintain written records of all dancers working at the premises. The records shall show the full name of the dancer, home address, date of birth and the date the dancer was provided with the information pack as stated above.
58. Such records shall be kept on the licensed premises and produced for inspection by the Police or an authorised council officer on request.
59. Any instances of the dancer breaching the Dancers Code of Conduct and any instances of discipline and fines imposed will be recorded on their record. The record shall include the date and time of the incident and the breach that occurred.
60. All booths/areas for VIP's used for private dances must be visible to supervision and must not have closing doors or curtains that prevent performances from being observed.
61. All booths/areas for VIP's used for private dances must be directly supervised by either an SIA registered door supervisor, or a member of staff who has direct contact with SIA registered door supervisors working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.
62. Dancers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.

Section C

Special Conditions for Sex Shops

Hours of opening

1. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public before 09:00 hours and shall not be kept open after 06.00pm.
2. Except with the previous consent of the Council, a Sex Establishment shall not be open on Sundays or any Bank Holidays or any public holidays.

Conduct and Management

3. Where the licence holder 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 notify the Council in writing 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 of writing from the Council.
4. The Licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence and of whom 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.
5. The Licensee shall maintain a register in which he shall record the name and address of any person approved under Regulations 8 or 9 hereof by the Council who is to be responsible for managing the Sex Establishment in his absence and the names and addresses of those employed in the Sex Establishment. Any change in the particulars shall be recorded forthwith in the register and the register shall be kept available for inspection by the Police and by authorised officers of the Council.
6. The licence holder shall provide the Council with a list of all staff employed at the premises and shall advise the Council and Dorset Police in writing of all staff changes within fourteen days of such changes.
7. The licence holder shall retain control over all portions of the premises as defined on the approved premises plans, and shall not let, licence or part with possession of any part of the licensed premises.
8. The licence holder shall nominate a Duty Manager for the premises on each occasion they are open to the public.
9. The name of the person responsible for the management of a Sex Establishment (whether 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.
10. The licence holder shall ensure the name of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Council officers carrying out an inspection of the premises.
11. The Licensee shall maintain good order in the Premises.

12. The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.
13. The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
14. No person under the age of 18 shall be admitted to the licensed premises whilst the sex establishment licence is being used. A notice advising no admittance to persons under the age of 18 shall be prominently displayed at each public entrance to the premises.
15. No person under the age of 18 shall be employed to work at the licensed premises in any capacity, or allowed to work in the premises on a self-employed basis.
16. The premises shall follow the 'Think 25' initiative, whereby any customer who enters the premises who appears to be under the age of 25 shall be asked for age identification. The only ID accepted shall be photo identification such as a picture driving licence, a passport or a PASS ID.
17. An incident / refusal log book shall be maintained at the premises. The incident / refusal log shall, as a minimum, give details of:
 - Any persons refused entry to the premises and the reason for refusal
 - Any persons ejected from the premises and the reason for ejection
 - Any inappropriate behaviour by customers
 - Any incidents of crime or disorder
18. The incident / refusal log shall show the date, the time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved or staff member where appropriate and brief description of the incident and any action taken by staff.
19. The incident / refusal log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the procedure to follow.
20. The licence holder shall ensure the incident / refusal log is checked periodically, at least once a week, to ensure the log is being effectively used.
21. The incident / refusal log shall be made available for inspection to the Police and or authorised officer of the council on request.
22. The licence holder shall ensure that the public is not admitted to any part or parts of the premises other than those, which have been approved by the Council.
23. No part of the licensed premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.
24. There shall be no touting for business for the premises by way of persons holding advertising boards, branded vehicles or personal solicitation outside or in the vicinity of the Premises.
25. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council indicating his name and that he is an employee.

Advertising, Premises Appearance and Layout

26. The Council shall not permit the display of any form of imagery or photographs that the Council believes could be construed as offensive to public decency.
27. No display or advertisement of the activities permitted by the sex establishment licence shall be exhibited so as to be visible from outside of the premises except:
- any notice required by law, by these regulations, or by any condition of the sex establishment licence granted by the Council
 - the name of the premises as specified in the sex establishment licence
 - the hours of opening of the premises
 - notice of any admission charge to the premises
 - unless the Council has given its prior consent in writing that such display or advertisement may be used.
27. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:-
- (i) Any notice of a size and in a 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 granted by the Council.
- (ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
28. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
29. No window shall contain any sign, advertising material, goods or display without the written consent of the Council.
30. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in a good working order.
31. Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This regulations shall not be construed as lessening the obligation of the licensee under Regulation 28 hereof.
32. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee)be present in any such booth or cubicle at any time, unless by reason of disability.
33. Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
34. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements :-
- (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".

- (ii) 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".
- (iii) Save in the case of emergency no access shall be permitted through the Premises to any unlicensed premises adjoining or adjacent.

- 35. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall be made except with the prior approval of the Council.
- 36. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting to the Sex Establishment who are disabled where applicable and accordance with the Equalities Act 2010.

Use

- 37. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
- 38. No change of use of any portion of the premises from that approved by the Council as a Sex Shop shall be made until the consent of the Council has been obtained thereto.
- 39. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.
- 40. 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.

Goods available in Sex Establishments

- 41. All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
- 42. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be prominently displayed within the Sex Establishment.
- 43. No sexually explicit film (including DVD or video) shall be sold, supplied or exhibited unless it has been passed by the British Board of Film Classification as R18 or such other classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film, DVD or video film so certified.
- 44. No film or video/DVD/Blu-ray film or computer game/memory stick or compact disc 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 or video/DVD/Blu-ray film or computer game/memory stick or compact disc, so certified.
- 45. The Licensee shall without charge, display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as

may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

Safety

46. The licensee shall take all reasonable precautions for the safety of the public and employees.
47. The licensee shall comply with any fire prevention and safety measures that may be required of him by the Council.
48. The premises shall be provided with fire appliances suitable to the fire risks of the premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

Notification of Changes

49. Where the consent of the Council is required to a change under Regulations 21, 22 or 37 hereof, the application for consent shall be accompanied by such specifications, including plans, of the proposed changes as the Council shall require in respect of their consideration of the application.
50. Where there is a material change in the particulars given or referred to in the application for the grant or, where the licence has been renewed, in the most recent application for the renewal of the licence, the licensee shall notify the Council of the change as soon as reasonably practicable after it has taken place PROVIDED THAT it shall be necessary for the licensee to notify the Council of that change under this Regulation where the Council have given their consent under Regulation 21, 22 or 37, or where the Council have been notified of that change under Regulation 7.

Section D

Sex Cinemas – Standard Conditions

Hours of opening

1. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public before 09:00 hours and shall not be kept open after 23:00 hours.
2. Except with the previous consent of the Council, a Sex Establishment shall not be open on Sundays or any Bank Holidays or any public holidays.

Conduct and Management

3. Where the licence holder 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 notify the Council in writing 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 of writing from the Council.
4. The licence holder shall provide the Council with a list of all staff employed at the premises and shall advise the Council and Dorset Police in writing of all staff changes within fourteen days of such changes.

5. The licence holder shall retain control over all portions of the premises as defined on the approved premises plans, and shall not let, licence or part with possession of any part of the licensed premises.
6. The licence holder shall nominate a Duty Manager for the premises on each occasion they are open to the public.
7. The licence holder shall ensure the name of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Council officers carrying out an inspection of the premises.
8. The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.
9. The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
10. No person under the age of 18 shall be admitted to the licensed premises whilst the sex establishment licence is being used. A notice advising no admittance to persons under the age of 18 shall be prominently displayed at each public entrance to the premises.
11. No person under the age of 18 shall be employed to work at the licensed premises in any capacity, or allowed to work in the premises on a self-employed basis.
12. The premises shall follow the 'Think 25' initiative, whereby any customer who enters the premises who appears to be under the age of 25 shall be asked for age identification. The only ID accepted shall be photo identification such as a picture driving licence, a passport or a PASS ID.
13. An incident / refusal log book shall be maintained at the premises. The incident / refusal log shall, as a minimum, give details of:
 - Any persons refused entry to the premises and the reason for refusal
 - Any persons ejected from the premises and the reason for ejection
 - Any inappropriate behaviour by customers
 - Any incidents of crime or disorder
14. The incident / refusal log shall show the date, the time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved or staff member where appropriate and brief description of the incident and any action taken by staff.
15. The incident / refusal log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the procedure to follow.
16. The licence holder shall ensure the incident / refusal log is checked periodically, at least once a week, to ensure the log is being effectively used.
17. The incident / refusal log shall be made available for inspection to the Police and or authorised officers of the council on request.
18. The licence holder shall ensure that the public is not admitted to any part or parts of the premises other than those, which have been approved by the Council.
19. No part of the licensed premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.

20. There shall be no touting for business for the premises by way of persons holding advertising boards, branded vehicles or personal solicitation.

Advertising, Premises Appearance and Layout

21. The Council shall not permit the display of any form of imagery or photographs that the Council believes could be construed as offensive to public decency.
22. No display or advertisement of the activities permitted by the sex establishment licence shall be exhibited so as to be visible from outside of the premises except:
- any notice required by law, by these regulations, or by any condition of the sex establishment licence granted by the Council
 - the name of the premises as specified in the sex establishment licence
 - the hours of opening of the premises
 - notice of any admission charge to the premises
 - unless the Council has given its prior consent in writing that such display or advertisement may be used.
23. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
24. No window shall contain any sign, advertising material, goods or display without the written consent of the Council.
25. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in a good working order.
26. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person be present in any such booth or cubicle at any time.
27. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall be made except with the prior approval of the Council.

Exhibition of film

28. No film shall be exhibited unless:
- a. it has been passed by the British Board of Film Classification as U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council, or
 - b. the film has been passed by the Council for showing within its authority
29. If the licence holder is notified by the Council in writing that it objects to the exhibition of a film specifying the grounds of objection, such film shall not be exhibited.
30. Not less than 28 days notice in writing shall be given to the Council of any proposal to exhibit any film which has not been classified as specified above. Such a film may only be exhibited if consent has been obtained from the Council in writing and in accordance with the terms of any such written consent.

31. When the programme includes a film in the 12, 15 or 18 category no person under the age of 18 shall be admitted to any part of the programme (see condition 14).
32. If the Council does not agree with the category of any film as passed by the British Board of Film Classification, it may alter the category or prohibit the showing of the film.
33. On notice of alteration of category being given by the Council to the licence holder, the film shall thereafter be treated as being in the altered category and the conditions applicable to the exhibition of films in the altered category shall be observed.
34. Immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Film Classification there shall be exhibited on the screen for at least 10 seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer, of the statement approved by the Board indicating the category of the film.
35. For a film passed by the Council, notices shall be conspicuously displayed both inside and outside the premises so patrons entering can easily read them. The notices shall state without the addition of any other words:

BCP Council

(Here insert title of film)
has been passed by the BCP Council as
(here insert the category assigned and the definition of the category)

36. Where a trailer is to be exhibited advertising a film passed by the Council, the notice shall state:

BCP Council

*.....trailer advertising +.....film
(*Here insert the category of the trailer)
(+Here insert the category of the film)

37. Every poster, advertisement, photograph, sketch, synopsis or programme relating to a film (other than a current news-reel) exhibited, or to be exhibited at the premises, shall indicate clearly the category of the film.

Section E

Requirements for Applications

Grant or Renewal of a licence

1. To apply for the grant of a Sex Establishment Licence an applicant must: -
 - a) Send to the council: -
 - i) a completed application form;

- ii) a plan to the scale of 1:100 of the premises to which the application relates unless the application is for renewal with no alteration to the approved plan.
- iii) a non-returnable application fee of £2615.00 for a Sexual Entertainment Venue, £2615.00 for a Sex Shop or £2615.00 for a Sex Cinema
- iv) upon grant of the application the remaining fee of £990.00 for a Sexual Entertainment Venue, £990.00 for a Sex Shop or £990.00 for a Sex Cinemas
- b) display a notice on or near the premises;
- c) advertise the application in a local newspaper;
- d) supply a copy of the public notice and newspaper advertisement;
- e) send a copy of the application and plan to Dorset Police within 7 days of making the application to the council.

Variation or Transfer of a Licence

2. To apply for the variation or transfer of a Sex Establishment Licence an applicant must:-
 - a) send to the council:-
 - i) a completed application form;
 - ii) where the application relates to structural amendments or amendment to that approved, e.g. appearance of the facade a plan of the premises to the scale of 1:100
 - iii) a non-returnable application fee of £760.00
 - b) display a notice on or near the premises;
 - c) advertise the application in a local newspaper;
 - d) supply a copy of the public notice and newspaper advertisement;
 - e) send a copy of the application and plan to Dorset Police within 7 days of making the application to the council.

Plan requirements

3. The plan shall show: -
 - a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
 - b) the location of points of access to and egress from the premises;
 - c) the location of escape routes from the premises;
 - d) in a case where the premises is to be used for more than one activity, the area within the premises to be used for each activity;
 - e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
 - f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
 - g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
 - h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
 - i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
 - j) the location of a kitchen, if any, on the premises.
4. The plan may include a legend or key through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

Public notices

5. A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the council, where it can be conveniently read from the exterior of the premises.
6. The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
7. The notice must state: -
 - a) details of the application and activities that it is proposed will be carried on or from the premises, for a new application or of the amendments proposed to the Licence or plan, if for a variation in respect of a Transfer of a licence, only the nature of the Sex Establishment licence will need to be stated.
 - b) the full name of the applicant,
 - c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
 - d) the date, being 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
 - e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£20,000) for which a person is liable on summary conviction for the offence.
8. Save in respect of a Minor Variation a similar notice must be published in a local newspaper or similar publication circulating in the BCP Council area within 7 days of giving the application to the council.

Variation of a licence

9. The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
10. The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.
11. The fee for variation of a Licence is **£760.00**

Renewal of a licence

12. The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.
13. The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.
14. The fee for renewal of a licence is the same as that for the initial grant.

Transfer of a licence

15. A person may apply for transfer of a licence at any time.
16. The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.
17. The fee for transfer of a licence is **£760.00**.

Minor Variation to a Licence

18. A full variation application shall not be required by the Council in respect of any alteration to layout or change of term or condition that has no adverse implications for the Council's Policy and which is of a minor nature (a Minor Variation) in the view of the Council's Licensing Manager.
19. An application for Minor Variation shall be sent to the Council where the Licensing Manager will first determine if the variation is of a minor nature.
20. The application should comprise of:-
 - a) a completed application form
 - b) where the application relates to plan amendments, a plan complying with the plan requirements
 - c) a non-returnable application fee of **£235.00**
(Note-if the Licensing Manager determines that the variation is not of a minor nature the application and fee will be returned)
21. Once determined the variation is of a minor nature the applicant shall:-
 - a) display a notice on or near the premises on white paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
 - b) The notice must be displayed for a period of 14 clear days starting with the day on which the Licensing Manager communicates their decision that they have accepted the application as a Minor Variation
 - c) send a copy of the application to Dorset Police, Dorset Fire and Rescue Service within 7 days starting with the day on which the Licensing Manager communicates their decision that they have accepted the application as a Minor Variation
21. The Licensing Manager shall authorise the Minor Variation within 28 days of receipt of the application unless:-
 - a) the Licensing Manager (whose decision shall be final) does not regard the proposals as a Minor Variation and/or
 - b) a valid objection is received to the application, in which case the matter shall be listed for hearing by the next available subcommittee convened for such purposes.

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SEV Entertainment			
New Application			
Acceptance of licence and administration	1	£ 66.00	£ 66.00
Initial Inspection of premises including confirmation of placement of statutory notices, plans etc.	2	£ 66.00	£ 132.00
Administration of representations from members of the public and advice	3	£ 66.00	£ 198.00
Preparation of Committee reports	1.5	£ 66.00	£ 99.00
Licensing Officer attendance at Sub Committee Briefing	1	£ 66.00	£ 66.00
Licensing Officer attendance at Sub Committee Hearing	4	£ 66.00	£ 264.00
Notification of Decision	2	£ 66.00	£ 132.00
Legal – Advice and scrutiny of reports, etc			£ 666.00
Training costs for licensing committee	1	£ 66.00	£ 66.00
Training costs for Licensing Officers	14	£ 66.00	£ 924.00
SEV New Application Fee (Rounded to Nearest 5)			£ 2,615.00
Annual fee			
Acceptance of licence and administration	1	£ 66.00	£ 66.00
Check Site Notice	0.5	£ 66.00	£ 33.00
Administration of representations from members of the public and advice	3	£ 66.00	£ 198.00
Preparation of Committee reports	1.5	£ 66.00	£ 99.00
Licensing Officer attendance at Sub Committee Briefing	1	£ 66.00	£ 66.00
Licensing Officer attendance at Sub Committee Hearing	4	£ 66.00	£ 264.00
Notification of Decision	2	£ 66.00	£ 132.00
Compliance inspection / check	1.5	£ 66.00	£ 99.00
Issue licence	0.5	£ 66.00	£ 33.00
SEV Annual Fee (Rounded to Nearest 5)			£ 990.00
Variation / Transfer			
Acceptance of licence and administration	1	£ 66.00	£ 66.00
Check Site Notice	0.5	£ 66.00	£ 33.00
Administration of representations from members of the public and advice	1	£ 66.00	£ 66.00
Preparation of Committee reports	1.5	£ 66.00	£ 99.00
Licensing Officer attendance at Sub Committee Briefing	1	£ 66.00	£ 66.00
Licensing Officer attendance at Sub Committee Hearing	4	£ 66.00	£ 264.00
Notification of Decision	2	£ 66.00	£ 132.00
Issue licence	0.5	£ 66.00	£ 33.00
SEV Variation / Transfer Fee (Rounded to Nearest 5)			£ 760.00
Minor Variation			
Acceptance of licence and administration	1	£ 66.00	£ 66.00
Internal Consultation	2	£ 66.00	£ 132.00
Issue licence	0.5	£ 66.00	£ 33.00
SEV Minor variation Fee (Rounded to Nearest 5)			£ 235.00

SEX SHOP			
New Application			
Acceptance of licence and administration	1	£ 66.00	£ 66.00
Initial Inspection of premises including confirmation of placement of statutory notices, plans etc.	2	£ 66.00	£ 132.00
Administration of representations from members of the public and advice	3	£ 66.00	£ 198.00
Preparation of Committee reports	1.5	£ 66.00	£ 99.00
Licensing Officer attendance at Sub Committee Briefing	1	£ 66.00	£ 66.00
Licensing Officer attendance at Sub Committee Hearing	4	£ 66.00	£ 264.00
Notification of Decision	2	£ 66.00	£ 132.00
Legal – Advice and scrutiny of reports, etc			£ 666.00
Training costs for licensing committee	1	£ 66.00	£ 66.00
Training costs for Licensing Officers	14	£ 66.00	£ 924.00
Sex Shop New Application Fee (Rounded to Nearest 5)			£ 2,615.00
Annual fee			
Acceptance of licence and administration	1	£ 66.00	£ 66.00
Check Site Notice	0.5	£ 66.00	£ 33.00
Administration of representations from members of the public and advice	3	£ 66.00	£ 198.00
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Sex Shop Minor Variation Fee (Rounded to Nearest 5)			£ 235.00

LOCAL GOVERNMENT (MISCELLANEOUS) PROVISIONS ACT 1982 - CONSULTATION OF SEX ESTABLISHMENT POLICY
REVIEW 2020

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LICENSING COMMITTEE



Report subject	BCP Council Scrap Metal Dealer Policy
Meeting date	10 December 2020
Status	Public Report
Executive summary	The purpose of this policy is to highlight the requirements of the Act by providing guidance to new applicants, existing licence holders, consultees and members of the public on how the act is administered and enforced.
Recommendations	<p>It is RECOMMENDED that:</p> <p>Members consider the draft policy in Appendix 1 and amend as necessary to create the final version for ratification by Full Council</p> <p>Members consider and agree the single set of fees proposed for applications made under the Scrap Metal Dealers Act 2013 in the BCP Council area as set out in Appendix 2</p>
Reason for recommendations	<p>The Scrap Metal Dealers Act 2013 has no requirement, for a Council to have in place a formal policy for dealing with applications made under the Scrap Metal Dealers Act 2013.</p> <p>However, in line with 'Best Practice' BCP Council has chosen to adopt a formal policy for this purpose.</p>

Portfolio Holder(s):	Councillor May Haines– Community Safety
Corporate Director	Kate Ryan – Corporate Director for Environment & Community
Report Authors	Nananka Randle, Licensing Manager
Wards	Council-wide
Classification	For Decision

Background

1. The Scrap Metal Dealers Act 2013 was introduced in response to the continuous increase in metal theft driven by the global rise in commodity prices and the recognition that the existing regulation of scrap metal dealers was ineffective. The Home Office has estimated that there were 80,000 – 100,000 reported metal theft offences in 2010/11 alone and is costing the economy up to an estimated £260m per year.
2. The impact of metal theft within communities can be immense, ranging from:
 - Disruptions to rail services
 - Loss of power to homes/businesses
 - Interruptions to telecommunications
 - Theft of lead from church roofs
 - Theft of bus shelters, lightning conductors, street signs,
 - Theft of gully and manhole covers
 - Theft of war and grave memorials

All have serious economic and social implications for communities, and can result in the loss of national infrastructure, loss of heritage and loss of life.
3. The key provisions of the Act include: -
 - Requiring all individuals and businesses to complete an enhanced application process to obtain a scrap metal dealer licence. Local authorities will have the power to turn down unsuitable applicants.
 - Giving local authorities the power to revoke a licence.
 - Requiring all sellers of metal to provide personal identification at the point of sale which is then recorded by the scrap metal dealer.
 - Extending the offence of buying metal with cash to itinerant metal collectors.
 - New powers for the police and local authorities to enter and inspect sites.
 - Creating a central public register, hosted by the Environment Agency, of all individuals and businesses licensed as scrap metal dealers.
 - Widening the definition of a scrap metal dealer to include motor salvage operators.

4. Two types of licences have been specified in the Act, each licence is valid for a period of three years: -
 - **Site Licence**
All sites where a licensee carries on business as a scrap metal dealer have to be identified, and a site manager has to be named for each site. This licence allows the licensee to transport scrap metal to and from these sites from any local authority area.
 - **Collector's Licence**
This allows the licensee to operate as a collector in the area of the issuing local authority. It does not allow the collector to operate in any other local authority area, so a separate licence has to be obtained from each council the collector wishes to operate it. The licence does not authorise the licensee to operate a site; to do so they will need a site licence from the relevant local authority.
5. There are currently 15 scrap metal dealers with site licences and 18 scrap metal collectors with collector's licences registered within the BCP Council area.
6. A person may NOT hold more than one collector's licence issued by the same local authority but may hold more than one licence, if issued by different authorities.

Policy

7. The policy sets out how applications for licences under the Scrap Metal Dealers Act 2013 will be administered and information contained within the Policy is in part lifted from the legislation to assist applicants. (Appendix 1)

Applicants and those processing applications must always have regard to the Scrap Metal Dealers Act 2013.

Fees

8. The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority. There will be additional income from the licence fees which are set on a cost recovery basis.
9. The fees cannot be used to support enforcement activity against unlicensed scrap metal dealers.
10. Currently within BCP there are three sets of fees for the issuing of licences under this legislation and it is proposed to introduce a single set of fees. (Appendix 2)

Options Appraisal

11. To consider the draft policy and decide if it requires amending to produce a final version ready for ratification by Full Council.
12. To consider and agree the fees as proposed.

Summary of financial implications

13. The fee structure is based on a cost recovery basis as set out in Appendix 2.

Summary of legal implications

14. There is no legal requirement to have a Scrap Metal Dealers Policy however it is considered good practice. The policy and fee structure will be reviewed every 5 years

Summary of human resources implications

15. Delivery of this is within the existing resources of the Licensing Team.

Summary of sustainability impact

16. Not Applicable

Summary of public health implications

17. Not Applicable

Summary of equality implications

18. An EINA will be submitted to the Equalities team

Summary of risk assessment

19. Not Applicable

Background papers

Scrap Metal Dealers Act 2013

<https://www.legislation.gov.uk/ukpga/2013/10/enacted>

Appendices

Appendix 1 – Draft BCP Council Scrap Metal Dealers Policy

Appendix 2 – Proposed fees for 2021-2026

Scrap Metal Dealers Act 2013 2020 - 2025

DRAFT

Author: Sarah Rogers – Senior Licensing Officer

Version: 1

Review Date: 2025

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1. Purpose Statement

- 1.1 This policy states Bournemouth, Christchurch and Poole Council's ("BCP Council") policy on the regulation of scrap metal dealers as the relevant local authority for the purposes of the Scrap Metal Dealers Act 2013 ("the Act").
- 1.2 This policy will be reviewed at least every five years.

2. Who the policy applies to

- 2.1 The policy aims to be a practical document to users, for example:

Applicants for Site and Collectors Licences
Existing Licence holders for Site and Collectors Licences
Licensing Officers
Partner Agencies
Councillors

3. This policy replaces

- 3.1 There were no previous policies by Bournemouth Borough Council, Christchurch Borough Council or The Borough of Poole.

4. Approval process

- 4.1 The Act does not require a Council to publish a policy, however, it is good practice to do so to ensure fairness and consistency.
- 4.2 The Policy will be reviewed every five years or more frequently if required.
- 4.3 BCP Licensing Authority may depart from its own policy, if individual circumstances of any case warrant such a deviation. In such cases, BCP Licensing Authority will give full reasons for doing so.

5. Links to Council Strategies

- 5.1 This Policy supports the BCP Council Core Strategy.
- 5.2 During the preparation of this policy document due consideration has been given to the following Key Council Strategies:
 - Corporate Plan
 - Health & Wellbeing Strategy
 - Safeguarding Strategy
 - Communities Engagement Strategy
 - Crime & Disorder Reduction Strategy
 - Equality & Diversity

6. The Policy

- 6.1 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and came into force on 1 October 2013 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The purpose of the Act was to deal with the

raising levels of metal theft through stricter regulation of the metal recycling sector or make it more difficult to dispose of stolen metal.

6.2 The Act:

- requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer;
- permits local authorities to charge a licence fee, set locally, at cost recovery;
- allows for the closure of unlicensed sites;
- requires local authorities to provide appropriate information to enable the Environment Agency in England and the Natural Resources Body for Wales to maintain national registers of licences;
- requires scrap metal dealers to verify the identity and address of persons from whom they receive metal;
- makes it an offence for a scrap metal dealer to purchase scrap metal for cash;
- sets out the record-keeping requirements in respect of any scrap metal received or disposed of by scrap metal dealers; and
- provides the police and local authorities with a right to enter and inspect scrap metal dealers' premises.

7. Definitions

'Scrap Metal Dealer' is a person carries on business as a scrap metal dealer if:

- (a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought); or
- (b) they carry on business as a motor salvage operator (see below).

The Act defines a Scrap Metal Dealer as a person who is for the time being carrying on business as a scrap metal dealer, whether or not authorised by a licence.

The selling of scrap metal merely as surplus materials or as a by-product of manufacturing articles is NOT to be regarded as "carrying on a business" as a scrap metal dealer.

The definition of a scrap metal dealer is wide and may include skip hire firms and tradesman such as plumbers and builders who sell scrap metal resulting from their businesses. In these circumstances each business will be considered on its own merits, but consideration will be given to the amount of metal which is collected/traded and how significant or incidental that element of the business is to the main business.

'Scrap Metal' includes:

- (a) Any old, waste or discarded metal or metallic material.
- (b) Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by the last holder as having reached the end of its useful life.
- (c) Platinum and other rare metals now being used in catalytic converters in vehicle exhausts.

The following are NOT considered scrap metal:

- (a) Gold
- (b) Silver
- (c) Any alloy of which 2% or more by weight is attributable to gold or silver

‘Motor salvage operation’ is defined in the Act as a business that consists of:

- (a) wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
- (b) wholly or mainly in buying written-off vehicles and subsequently repairing and reselling them,
- (c) wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in (a) and (b), or
- (d) wholly or mainly in activities falling within paragraphs (b) and (c).

“Licensed site” means a site identified in a scrap metal licence.

“Premises” means any land or other place (whether licensed or not).

“Site” means any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there).

“Site manager”, in relation to a site at which a scrap metal dealer carries on business, means the individual who exercises day-to-day control and management of activities at the site. An individual may be named in a licence as site manager at more than one site; but no site may have more than one site manager named in relation to it.

“Trading name” means a name, other than that stated in the licence (under Section 2(4)(a) or (6)(a)), under which a licensee carries on business as a scrap metal dealer.

8. Types of licence

- 8.1 A licence is required to carry on the business as a scrap metal dealer. A licence, once granted, lasts for three years. Trading without the necessary licence is a criminal offence – see Appendix A.

Site Licence

- 8.2 site is defined as any premises used in the course of carrying on a business as a scrap metal dealer, whether or not metal is kept there. This means a dealer will require a licence for an office, even if they do not operate a metal store or yard from those premises.
- 8.3 The site licence also permits the licence holder to act as a collector.
- 8.4 A site licence must be displayed at each site identified on the licence, in a prominent place accessible to members of the public.
- 8.5 All sites operating as a scrap metal business must be licensed.
- 8.6 Each site must have a named site manager.

8.7 A site licence allows the licence holder to transport scrap to and from the site from any local authority area.

8.8 A site licence may be granted for more than one site in the local authority area.

Collectors Licence

8.9 A collector means a person who:

- (a) carries on a business as a scrap metal dealer otherwise than at a site, and
- (b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door.

8.10 A collectors licence does not permit the holder to operate a scrap metal site.

8.11 A collectors licence does not allow collection from outside the area of BCP Council. If a person wishes to collect from other local authority areas, a collectors licence will be required from each local authority area he/she collects scrap within.

8.12 A copy of the collectors licence must be displayed on any vehicle that is being used in the course of a dealer's business. It must be displayed in a prominent position so that it can be easily read from outside the vehicle.

Register of Licences

8.13 The Environment Agency maintains a register of scrap metal licences issued by Local Authorities in England and each entry will record:

- (a) the name of the authority which issued the licence;
- (b) the name of the licensee;
- (c) any trading name of the licensee;
- (d) the address of the site identified in the licence;
- (e) the type of licence; and
- (f) the date on which the licence is due to expire.

8.14 The registers are open to the public for inspection <https://environment.data.gov.uk/public-register/view/search-scrap-metal-dealers>

9. Applicant suitability

9.1 BCP Council must determine if an applicant is a suitable person to carry on the business as a scrap metal dealer and may not issue a licence unless satisfied the applicant is suitable. "Applicant" includes sole traders, partners of a partnership and directors, secretary and shadow directors of a company.

9.2 Notwithstanding the existence of this policy, BCP Council when determining a person's suitability for the purposes of the Act, will treat each application on its own individual merits.

9.3 BCP Licensing Authority must supply any such information to any of the following persons who request it for purposes relating to this Act:

- (a) any other local authority;
- (b) The Environment Agency;

- (c) The Natural Resources Body for Wales;
- (d) An Officer of a Police Force.

- 9.4 This section does not limit any other power BCP Licensing Authority may have to supply that information.
- 9.5 BCP Council may have regard to any information which they consider to be relevant when determining the suitability of a person to hold a scrap metal dealer's licence, including:
1. Where the applicant or any site manager has been convicted of a relevant offence (see Appendix C).
 2. Whether the applicant or any site manager has been the subject of any relevant enforcement action i.e. if –
 - (a) the person has been charged with an offence specified in Appendix C above, and criminal proceedings in respect of that offence have not yet concluded; or
 - (b) an environmental permit granted in respect of the person under the Environmental Permitting (England and Wales) Regulations 2010 has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.
 3. Any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal).
 4. Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal).
 5. Any previous revocation of a scrap metal licence (and the reasons for the revocation).
 6. Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of the Act are complied with.
- 9.6 Having regard to the Act BCP Council have determined that there will be a presumption to refuse an application where the applicant, or any other person required to be named or identified in the application, has been convicted of any of the relevant offences set out in Appendix C.
- 9.7 BCP Council will require the applicant to produce a Disclosure and Barring Service Certificate (DBS) which is dated within 3 months of the application.
- 9.8 BCP Council will require proof of identification and address by way of a valid Great Britain or Northern Ireland **photocard** driving licence **OR one** document from the following list:
- (a) a valid United Kingdom passport, within the meaning of Section 33(1) of the Immigration Act 1971(b); OR
 - (b) a valid passport issued by an European Economic Area (EEA) state; OR
 - (c) a valid UK biometric immigration document, issued in accordance with regulations made under Section 5 of the UK Borders Act 2007.
- 9.9 In addition to the identification required in 9.8 above one document from the following list must be produced with the application which must be dated within 3 months of the application:
- (a) a bank or building society statement;
 - (b) a credit or debit card statement;

- (c) a council tax demand letter or statement; or
- (d) a utility bill, but NOT a mobile telephone bill.

9.10 A check on the Environment Agency's website shall be made that the details of the waste carriers licence provided in the application are correct.

9.11 BCP Council may consult other persons regarding the suitability of an applicant, including but not limited to:

- (a) any other Local Authority;
- (b) the Environment Agency;
- (c) an Officer of a Police Force;
- (d) HM Revenue and Customs;
- (e) Trading Standards;
- (f) BCP Council's Community Enforcement Team.

10. Application procedure

10.1 The application form as shown at Appendix B is available from the Licensing Team, or BCP Council's website. It contains details of all of the information and documentation that will be required to submit the application -

<https://www.bournemouth.gov.uk/Business/Licensing/ScrapMetalDealersAct2013.aspx>

10.2 Guidance notes on how to complete the application are also available and shown at Appendix B.

10.3 The application for a collectors licence only allows a business or individual to operate only within the Bournemouth, Christchurch and Poole area therefore applicants wishing to operate across borders will be required to obtain a further collectors licence from the relevant local authority where they wish to collect and sell.

Term of Licence/Renewal

10.4 A licence is valid for three years beginning from the date it is issued.

10.5 If a licence is renewed, the licence expires at the end of another three year period continuing from the date of renewal.

Variation of Licence

10.6 A licence may be varied from one type to another. A variation application must be made to reflect changes to:

- (a) Site Licence – the name of the licensee, the sites and the site manager
- (b) Collectors Licence – the name of the licensee

10.7 The variation can amend the name of the licensee but cannot transfer the licence to another person, this would require a new application for a site or collectors licence.

10.8 A variation application must be made to the issuing authority and contain particulars of the changes to be made to the licence.

10.9 Any change of trading name must be notified to BCP Licensing Authority within 28 days of the change.

Revocation of Licence/Imposition of Conditions

- 10.10 BCP Licensing Authority may revoke a scrap metal licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.
- 10.11 BCP Licensing Authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as a site manager at any of the sites identified in the licence.
- 10.12 BCP Licensing Authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer and shall have particular regard to any relevant offences and enforcement action.
- 10.13 If the licensee or any site manager named in a licence is convicted of a relevant offence, BCP Licensing Authority may vary the licence by adding one or more of the following conditions:
- 10.13.1 That any dealer must not receive scrap metal except between 09:00 hours and 17:00 hours on any day.
 - 10.13.2 That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
- 10.14 A revocation or variation comes into effect when no appeal is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 10.15 If BCP Licensing Authority considers that the licence should not continue in force without conditions, it may by notice provide:
- (a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions set out in paragraph 10.13, or
 - (b) that a variation under this paragraph comes into effect immediately.
- 10.16 All licences issued by BCP Licensing Authority pursuant to the Act remain the physical property of BCP Licensing Authority and must be returned as required on expiry or revocation of the relevant licence.
- 10.17 Action may be taken for the recovery of any licence not returned as required by BCP Licensing Authority and any such action may be taken into account in relation to any future application for a licence.

11. Fees

- 11.1 The application fees are set by BCP Licensing Authority on a cost recovery basis and are reviewed every 5 years. Any fee set will take into account guidance from the Secretary of State.

12. How to use this policy

- 12.1 This policy should be used in conjunction with the following documents:

13. Roles and responsibilities

- 13.1 Where there are uncontested applications, or where there are no questions about the suitability of the applicant, the determination should be dealt with by BCP Licensing Authority's Licensing Officers.
- 13.3 Contested applications where there is relevant information from any of the consultees, or queries regarding an applicant's suitability, revocation of a licence or the imposition of conditions shall be presented to the Licensing Sub-Committee.

14. Enforcement and sanctions

- 14.1 As with any licensing or regulatory system, it is first and foremost the responsibility of the business to ensure that they comply with the legislation; and the role of the enforcement agencies are to ensure that they are doing so, either through the provision of advice and improvement support or ultimately through fines and legal action.
- 14.2 Sections 10 – 15 of the Scrap Metal Dealers Act 2013 set out requirements for the correct conduct of the business which must be complied with. These are set out in detail at Appendix A.

Right of Entry and Inspection

- 14.3 A Police Officer or an authorised Officer of BCP Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.
- 14.4 Entry without notice would occur, if:
- (a) Reasonable attempts to give notice have been given and failed, or
 - (b) entry to the site is reasonably required for the purposes of ascertaining whether the provisions of the Act are being complied with or investigating offences under it and, in either case, the giving of notice would defeat that purpose.
- 14.5 14.3 and 14.4 do **NOT** apply to residential premises.
- 14.6 A Police Officer or an authorised Officer of BCP Council must provide evidence of their identity, and evidence of their authority to exercise these powers, if requested by the owner, occupier, or other person in charge of the premises.

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APPENDIX A

SCRAP METAL DEALERS ACT 2013 - OFFENCES AND PENALTIES

SECTION	OFFENCES	MAX PENALTY
1(3)	Carrying on the business as a scrap metal dealer without a licence	Level 5
8(9)	Failure to notify the authority of any changes to details given with application	Level 3
10(3)	Failure to display site licence or collectors licence	Level 3
11(6)	Receiving scrap metal without verifying persons full name and address	Level 3
11(7)	On delivery of scrap metal, providing a false name and address	Level 3
12(4) and (6)	Buying scrap metal for cash	Level 5
13 and 15(6)	Failure to keep records regarding receipt of metal	Level 5
14 and 15(6)	Failure to keep records regarding disposal of metal	Level 5
15(3), (4) and (6)	Failure to keep information and records for a period of 3 years	Level 5
16(3)	Obstruction to right of entry or failure to produce records	Level 3
Schedule 1		
3(5)	Failure to notify changes to a licence	Level 3
5	Makes or recklessly makes a false statement in a response to a request for further information	Level 3

Level 3 = £1,000
Level 5 = Unlimited

APPENDIX B

APPLICATION FORM



Scrap Metal Dealers Act 2013 Application for a Scrap Metal Licence

Please write legibly in **BLOCK CAPITALS** and ensure that your answers are inside the boxes. All questions must be answered. Incomplete applications will not be processed. You may wish to keep a copy of the completed form for your records.

SECTION 1. (for all applicants)

Please indicate the type of licence you are applying for (please tick):

A site licence ☐ A collector's licence ☐

Are you applying as (please tick):

An individual ☐ A company ☐ A partnership ☐

Please state your trading name:

Is this application for a grant of a new licence or a renewal (please tick the relevant box):

Grant of a new licence ☐

Renewal of an existing licence ☐

Variation of an existing licence ☐

Variation of an existing licence (change of site manager) ☐

If 'yes' please provide your existing licence number:

SECTION 2. Permits, registrations and licences in force

Please provide details of any relevant environmental permit, exemption or registration (such as a scrap metal dealer or a motor salvage operator) in relation to the applicant:

Type: Identifying number: Date of issue:

Type: Identifying number: Date of issue:

Continue on a separate sheet if necessary

Please provide details, including licence number, of any other scrap metal licence issued by any authority to the applicant within the last 3 years (please use a continuation sheet if necessary):

Are you registered as a waste carrier with the Environment Agency? (please tick)

Yes ☐ No ☐

If 'yes' please provide your carrier's registration number:	
SECTION 3. TO BE COMPLETED IF APPLYING FOR A SITE LICENCE N.B - A site licence authorises the licensee to carry on business at a site in the authority's area. You can apply to licence multiple sites using this form.	
Details of prospective licence holder	
Title (please tick): Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other <input type="checkbox"/> (please state):	I am 18 years old or over. Please tick Yes <input type="checkbox"/> No <input type="checkbox"/> Date of Birth:
Surname:	Forenames:
Position/Role in the business:	
I attach a Basic Disclosure Certificate ¹ : Yes <input type="checkbox"/> No <input type="checkbox"/> If you do not provide a disclosure certificate your application may be delayed or rejected.	
Contact details (we will use your business address to correspond with you unless you indicate we should use your home address)	
Business Address: Head office name or house name or number: First line of address: Town/City: Postcode:	Telephone numbers: Daytime: Evening: Mobile:
Home address: House name or number: First line of address: Town/City: Postcode	Email address (if you would prefer us to correspond with you by email): Please note that you must still provide us with a postal address

¹ Further information about Basic Disclosure Certificates are set out in the explanatory notes accompanying this form.

SITE DETAILS - Please list the details for each site where you propose to carry on business as a scrap metal dealer in this local authority area. If you operate more than two sites in the area please provide details for each site on a continuation sheet. [N.B - If the applicant operates multiple sites within a licensing authority area, provision should be made for more than one site manager]

Full address of each site you intend to carry out business as a scrap metal dealer:	Site manager(s) details (if different from the applicant):
<p><u>Site 1</u></p> <p>Name or number:</p> <p>First line of address:</p> <p>Town/City:</p> <p>Postcode:</p> <p>Telephone number:</p> <p>Email address:</p> <p>Website address:</p>	<p>Name:</p> <p>House name or number:</p> <p>First line of address:</p> <p>Town/City:</p> <p>Postcode:</p> <p>Date of Birth:</p> <p>Basic Disclosure certificate attached: Yes <input type="checkbox"/> No <input type="checkbox"/> ²</p>
<p><u>Site 2</u></p> <p>Name or number:</p> <p>First line of address:</p> <p>Town/City:</p> <p>Postcode:</p> <p>Telephone number:</p> <p>Email address:</p> <p>Website address:</p>	<p>Name:</p> <p>House name or number:</p> <p>First line of address:</p> <p>Town/City:</p> <p>Postcode:</p> <p>Date of Birth:</p> <p>Basic Disclosure certificate attached: Yes <input type="checkbox"/> No <input type="checkbox"/></p>

² If you do not provide a disclosure certificate issued for named persons by issued no more than three months before the date of this application your application may be delayed or rejected.

PARTNERSHIPS - (If you are applying as a partnership, please provide the following details in respect of each partner - where there are more than two partners then please use a continuation sheet)

Full name: Date of birth: Residential address: Basic Disclosure certificate attached: Yes <input type="checkbox"/> No <input type="checkbox"/> ³	Full name: Date of birth: Residential address: Basic Disclosure certificate attached: Yes <input type="checkbox"/> No <input type="checkbox"/>
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COMPANIES - (If you are applying as a company please provide the details set out below about the company)

Company name: Registered Company number: Address of the registered Company office:

Please provide the following details for each director(s), shadow director(s) and company secretary where these are different from the applicant and site manager(s) - where necessary please use a continuation sheet.

Role: Name: Date of Birth: House name or number: First line of address: Town/City: Postcode: Basic Disclosure certificate attached: Yes <input type="checkbox"/> No <input type="checkbox"/> ⁴	Role: Name: Date of Birth: House name or number: First line of address: Town/City: Postcode: Basic Disclosure certificate attached: Yes <input type="checkbox"/> No <input type="checkbox"/>
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³ If you do not provide a disclosure certificate issued for named persons by issued no more than three months before the date of this application your application may be delayed or rejected.

⁴ If you do not provide a disclosure certificate issued for named persons by issued no more than three months before the date of this application your application may be delayed or rejected.

Please provide details of any site in the area of any other local authority at which the applicant carries on business as a scrap metal dealer or proposes to do so:

Address:

Postcode:

Please name the local authority which has licensed this site, or to whom applications have been made if before commencement of the Scrap Metal Dealers Act 2013:

Please continue on a separate sheet of paper if necessary.

Only applicable to sites established after 1 November 1990

Do you have planning permission? (please tick)

Yes ☐ No ☐

Do you also intend to operate any mobile collection vehicles from these sites?

Yes ☐ No ☐

If yes, please describe the arrangements for how these vehicles will operate:

SECTION 4. TO BE COMPLETED IF APPLYING FOR A COLLECTOR'S LICENCE
N.B - A collector's licence authorises the licensee to carry out business as a mobile collector in the authority's area only.

Details of prospective licence holder

Title (please tick):

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other ☐

(please state):

Surname:

I am 18 years old or over. Please tick

Yes ☐ No ☐

Date of Birth:

Forenames:

I attach a Basic Disclosure Certificate issued ⁵:

Yes ☐ No ☐

If you do not provide a disclosure certificate your application may be delayed or rejected.

⁵ Further information about Basic Disclosure Certificates are set out in the explanatory notes accompanying this form.

Contact details (we will use your business address to correspond with you unless you indicate we should use your home address)	
Business Address: House name or number: First line of address: Town/City: Postcode:	Telephone numbers: Daytime: Evening: Mobile:
Home address: House name or number: First line of address: Town/City: Postcode:	Email address (if you would prefer us to correspond with you by email): Please note that you must still provide us with a postal address
Where will scrap metal that has been purchased be stored before further disposal? House name or number: First line of address: Town/City: Postcode: Will not be stored <input type="checkbox"/> How many vehicles do you intend to operate under this licence if your application is granted?	
Where will the vehicle(s) be kept when not in use?	
Please submit a current passport photo with application <input type="checkbox"/>	
SECTION 5. MOTOR SALVAGE (For all applicants)	
Will your business consist of acting as a motor salvage operator? This is defined as a business that: <ul style="list-style-type: none"> • wholly or in part recovers salvageable parts from motor vehicles for re-use or re-sale, and then sells the rest of the vehicle for scrap; • wholly or mainly involves buying written-off vehicles and then repairing and selling them off; and, • wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and selling them off. 	

(please tick) Yes ☐ No ☐

SECTION 6. BANK ACCOUNTS THAT WILL BE USED FOR PAYMENTS TO SUPPLIERS (For all applicants)

Please provide details of the bank account(s) that will be used to make payment to suppliers, in accordance with s12 of the Scrap Metal Dealers Act 2013. If more than two bank accounts will be used, please use a continuation sheet.

Account name:

Account name:

Sort code:

Sort code:

Account number:

Account number:

SECTION 7. PAYMENT (For all applicants)

How do you wish to make payment for your scrap metal dealer's licence? (please tick)

Cheque (please make payable to "Bournemouth Borough Council" ☐

Credit or Debit Card (please telephone 01202 451180 to arrange payment) ☐

SECTION 8. CRIMINAL CONVICTIONS (For all applicants)

Have you, any listed partners, any listed directors, or any listed site manager(s) in this application ever been convicted of a relevant offence or been the subject of any relevant enforcement action? (Please see list of relevant offences).

Yes ☐ No ☐

If 'yes' you must provide details for each conviction, the date of the conviction, the name and location of the convicting court, offence of which you were convicted and the sentence imposed:

SECTION 9. DECLARATION (For all applicants)

The information contained in this form is true and accurate to the best of my knowledge and belief. I understand that if I make a material statement knowing it to be false, or if I recklessly make a material statement which is false, I will be committing an offence under Schedule 1 Para 5 of the Scrap Metal Dealers Act 2013, for which I may be prosecuted, and if convicted, fined.

I understand that the local authority to whom I make my application may consult other agencies about my suitability to be licensed as a scrap metal dealer, as per section 3(7) of the Scrap Metal Dealers Act 2013, and that those other agencies may include other local authorities, the Environment Agency, the Natural Resources Body for Wales, and the police.

I understand that the purpose of the sharing of this data is to form a full assessment of my suitability to be licensed as a scrap metal dealer. I also understand that the sharing of information about me may extend to sensitive personal data, such as data about any previous criminal offences. Some details will also be displayed on a national register, as required by the Scrap Metal Dealers Act 2013. I hereby expressly consent to this processing of my data and display of relevant information on the public register.

Signed:

Date:

Print Name:

Checklist: Information to be submitted with application.

*All supporting evidence and identification must be originals **not** photocopies.*

- | | |
|----------------------------------------------------------------------------|--------------------------|
| Basic Disclosure - of all parties if a company (dated within last 3 month) | <input type="checkbox"/> |
| Photographic I/D of all applicants - (passport, driving licence) | <input type="checkbox"/> |
| Evidence of Home Address - (bank statement, council tax bill, etc) | <input type="checkbox"/> |
| Evidence of Bank details - (bank statement etc.) | <input type="checkbox"/> |
| Passport Photograph (Collectors Only) | <input type="checkbox"/> |
| Appropriate Fee Site Licence £755.00
Collectors £540.00 | <input type="checkbox"/> |

Completed application to:

**BCP Council
Licensing Team
Town Hall Annexe
St Stephen's Road
Bournemouth
BH2 6EA**

Data Protection – PLEASE READ THIS NOTICE CAREFULLY

We will use the information you provide in this form and in any supporting documents to process and determine your application for a licence. The information will be held on file and on an internal database, and such public documents as we may be required to maintain.

The information supplied may be passed to other bodies, including law enforcement agencies and government departments, as allowed by law. We may check information you have provided, or information that another person has provided, with other information we hold. We may also obtain information about you from, or provide information to, organisations such as government departments, law enforcement agencies, other local authorities and private sector organisations such as banks, insurance companies or legal firms, to verify the accuracy of information, prevent or detect crime, or protect public funds.

We will not give your information to anyone else, or use information about you for other purposes, unless the law requires us to.

Assistance with completing your application for a scrap metal dealer's licence

If you need more help in completing the application, then call Licensing team on 01202 451180.

SECTION 1 – FOR EVERYONE

This section asks if you are applying for a collector's licence or a site licence. You may only apply for one type of licence in each council area, but you can apply to run multiple sites. For instance, you could apply to run 3 sites in council A's area, and also apply to be a collector in council B's area.

A **site licence** lets you buy and sell scrap metal from a fixed location within the BCP Council area.

A **collector's licence** allows you to travel within BCP Council area to collect scrap metal. You may not take this metal back to a site that you run within the council area in order to sell it.

SECTION 2 – FOR EVERYONE

In order to carry on your business, you may need to hold other environmental permits or licences that we should know about. For instance, if you carry waste as part of your business it is a legal requirement to register as a waste carrier. This includes transporting waste while travelling from job to job, to a storage place for disposal later, or to a waste disposal company or waste site. For more information on this, or to register call: 03708 506506 or visit: www.environment-agency.gov.uk/wastecarriers

This section also asks for details of any other scrap metal licences you hold. Please make sure you include the licence number so that we can check this against the national register.

SECTION 3 – FOR SITE LICENCES

Fill out this section if you want a **site licence**. It should be filled out in the name of the person who will hold the scrap metal dealer's licence. As well as details about you and your business, we will also need details of any directors or partners involved in the business including their home address. We also need to know the address of the site or sites you want the licence for, as well as the details of each site manager responsible for that site. These details are required by law and also so that you can be contacted if there are any problems.

You and every person listed on the application form needs to submit a Basic Disclosure Certificate. You can apply for this certificate at <https://www.apply-basic-criminal-record-check.service.gov.uk/>

Possessing a conviction may not automatically prevent you from having a licence if the offence was unrelated to being a scrap metal dealer or a long time ago.

A Basic Disclosure Certificate is considered to be only valid for 3 months, but can be used to apply to as many councils as you require within that time.

There is not much space on the form, so if you need to list more than one site manager, director, or partner, then please continue on a separate piece of paper setting out the details in the same way as the form.

A **site manager** is the person who will be in charge of the site on a daily basis. You will probably need a different site manager for each site on the licence.

A **director** or **partner** is someone who has or shares legal responsibility for the operation of the company, including filing returns at Companies House.

We also want to know if you operate or propose to operate a site in another local authority area, along with details of this site, the council which has licensed it or to whom you have applied for a licence.

If your site(s) were established after 1990, then you are required to have planning permission from the council. You will need to tell us if this is the case, and it will be checked with the council planning department.

SECTION 4 – FOR A COLLECTOR'S LICENCE

Fill out this section if you want a **collector's licence**. It should be filled out in the name of the person who will hold the scrap metal dealer's licence. You are asked to provide contact details, including the place where you live, so that we can get in touch with you if necessary.

You need to submit a Basic Disclosure Certificate along with the application form. You can apply for this certificate at:

<https://www.apply-basic-criminal-record-check.service.gov.uk/>

Possessing a conviction may not automatically prevent you from having a licence if the offence was unrelated to being a scrap metal dealer or a long time ago.

A Basic Disclosure Certificate is considered valid for up to 3 months, but can be used to apply to as many councils as you require within that time.

We also ask for the place where you will store any collected scrap metal before taking it to a licensed site to dispose of it. Note that you are not allowed to sell or buy metal at this storage site and doing so is an offence. This may be a licensed site that you operate in another council area.

You will need to ensure that all your vehicles are roadworthy and are properly taxed, insured and otherwise meet the legal requirements to be on the road.

We require a current passport size photo as we will produce a personal licence identity card.

SECTION 5 – MOTOR SALVAGE OPERATOR

This section asks if you will be salvaging motor vehicles as part of your work. The Scrap Metal Dealers Act 2013 brings together the Scrap Metal Dealers Act 1964 together with Part 1 of the Vehicles (Crime) Act 2001, which means you now only need a scrap metal dealer's licence.

SECTION 6 – BANK ACCOUNTS THAT WILL BE USED FOR PAYMENTS TO SUPPLIERS

This section asks you for the bank details which you will use to pay people for the scrap metal you receive or sell. This is to check that you are not selling the metal for cash, which is illegal. These details will be kept securely by and are a legal requirement of the application.

SECTION 7 – PAYMENT

There is a fee to apply for a licence. The fee varies from council to council as it reflects their costs of processing the form and checking that people are doing what the licence requires. Applications cannot be accepted unless the correct fee has been paid.

SECTION 8 – CRIMINAL CONVICTIONS

This section asks you to set out any relevant convictions or enforcement activity that has been undertaken against you by the Environment Agency or Natural Resources Wales. It is an offence under the Scrap Metal Dealers Act 2013 to make or recklessly make a false statement. The information listed here will be checked against the Basic Disclosure Certificate from Disclosure Scotland that you are required to submit with the application, along with information retained by the police and the Environment Agency or Natural Resources Wales.

SECTION 9 – DECLARATION

The person who will hold the scrap metal dealer's licence needs to sign and date the declaration, as do the other people named on the form. This section also explains that the council has to share some of these details with the police, Environment Agency, or Natural Resources Wales when checking whether the applicant(s) is a suitable person to hold a licence. Some of the information will also be displayed on a public register.

If you do not agree to this use of your information, then you should **not** sign the form. If you are in any doubt about what this section means, then speak to the licensing team.

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APPENDIX B

RELEVANT OFFENCES

Certain criminal convictions are considered relevant under the Scrap Metals Dealers Act 2013 and are set out in the list below. The full list can also be viewed at <http://www.legislation.gov.uk/ukxi/2013/2258/made>

If an applicant has any relevant offences these will be taken into account when the local authority evaluates if the applicant is a suitable person to carry on as a scrap metal dealer.

PART 1

Primary Legislation

- (a) An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989
- (b) An offence under section 170 or 170B of the Customs and Excise Management Act 1979, where the specific offence concerned relates to scrap metal
- (c) An offence under section 110 of the Environment Act 1995
- (d) An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990
- (e) An offence under section 9 of the Food and Environment Protection Act 1985
- (f) An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- (g) An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- (h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
- (i) Any offence under the Scrap Metal Dealers Act 1964
- (j) Any offence under the Scrap Metal Dealers Act 2013
- (k) An offence under sections 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- (l) Any offence under Part 1 of the Vehicles (Crime) Act 2001
- (m) An offence under sections 85, 202, or 206 of the Water Resources Act 1991

PART 2

Secondary Legislation

- (a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- (b) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
- (c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005
- (d) Any offence under the Hazardous Waste (Wales) Regulations 2005
- (e) An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- (f) Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- (g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- (h) Any offence under the Transfrontier Shipment of Waste Regulations 1994
- (i) Any offence under the Transfrontier Shipment of Waste Regulations 2007
- (j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- (k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

* See note below

*NOTE: If the applicant or any site manager has been convicted of a relevant offence, BCP Licensing Authority may include in the licence one or both of the following conditions:

1. That the dealer must not receive scrap metal except between the hours of 09:00 and 17:00 on any day.
2. That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

Proposed BCP Council Fees – Scrap Metal Dealers

	2020		
	Time	Rate	Cost
Collector			
Application form check (Check Suitability - Police Check)	1.25	£ 54.00	£ 67.50
Check Address and Local Authority	0.25	£ 54.00	£ 13.50
Produce ID Card and Licence	0.50	£ 54.00	£ 27.00
Update APP	0.25	£ 54.00	£ 13.50
Cost of Card + Laminated Licence			£ 7.00
Cost of Software - ID CARD + Civica + Adobe			£ 50.00
Compliance visits / checks	3.00	£ 54.00	£ 162.00
Update Environment Agency	0.25	£ 54.00	£ 13.50
Technical Time	1	£ 40.00	£ 40.00
Collector's Licence Fee (Rounded Up)	5.50		£ 395.00
Site Licence			
Application form check	1.25	£ 54.00	£ 67.50
Site visit	3.00	£ 54.00	£ 162.00
Produce ID Card and Licence	0.50	£ 54.00	£ 27.00
Update APP	0.50	£ 54.00	£ 27.00
Cost of Card + Laminated Licence			£ 7.00
Cost of Software - ID CARD + Civica + Adobe			£ 50.00
Compliance visits / checks	3.00	£ 54.00	£ 162.00
Update Environment Agency	0.25	£ 54.00	£ 13.50
Technical Time	1	£ 40.00	£ 40.00
Site Licence Fee	9.5		£ 560.00
Variation Site or Collector	1.50	£ 54.00	£ 81.00
Cost of Card + Laminated Licence			£ 7.00
Technical Time	0.25	£ 40.00	£ 10.00
Variation Site or Collector			£ 100.00
Replacement Site or Collector	1.00	£ 54.00	£ 54.00
Cost of Card + Laminated Licence			£ 7.00
Technical Time	0.25	£ 40.00	£ 10.00
Replacement Site or Collector			£ 71.00
Pre App Meeting (2 Hours)	1.50	£ 54.00	£ 81.00
Technical Time	0.25	£ 40.00	£ 10.00
Pre APP Meeting Cost			£ 91.00

Proposed BCP Council Fees – Scrap Metal Dealers

Forward Plan – Licensing Committee

Publication date: 2 December 2020

	Subject	Purpose of report	Consultation	Report author(s)	Meeting date
1.	New BCP Sex Establishment Policy	<p>To recommend to Council the adoption of the relevant legislation required to produce a new policy;</p> <p>To consider a draft new Sex Establishment Policy for BCP Council, amend as required and approve for public consultation;</p> <p>To agree the proposed fees</p>	See List of Consultees in Appendix 4 of report	Nananka Randle, Licensing Manager/Sarah Rogers, Senior Licensing Officer	10 December 2020
2.	New BCP Scrap Metal Dealer Policy	<p>To consider a draft new Scrap Metal Policy for BCP Council, amend as required and recommend to Council for adoption;</p> <p>To agree a single set of fees.</p>	Not applicable	Nananka Randle, Licensing Manager/Sarah Rogers, Senior Licensing Officer	10 December 2020
3.	Taxi and Private Hire Policies:	To consider the Taxi and Private Hire Policies for BCP Council following the public	Member Working Group, Trade Representatives, Licensing Committee,	Nananka Randle,	Additional meeting, early February 2021*

	Subject	Purpose of report	Consultation	Report author(s)	Meeting date
	<ul style="list-style-type: none"> • Driver Policy • Vehicle Policy • Operator Policy 	consultation, amend as required and recommend to Council for adoption.	and formal Public Consultation.	Licensing Manager	
4.	Harmonisation of Licensing Fees	To agree licensing fees for BCP Council.	<i>This section to be completed</i>	Nananka Randle, Licensing Manager	Additional meeting, early February 2021*
5.	Draft Gambling Policy	To consider a draft Gambling Policy for BCP Council, amend as required and approve for public consultation.	<i>This section to be completed</i>	Nananka Randle, Licensing Manager	4 March 2021
6.	New BCP Sex Establishment Policy	To consider a new Sex Establishment Policy for BCP Council, following the public consultation, amend as required and recommend to Council for adoption.	See List of Consultees in Appendix 4 of report, and formal Public Consultation.	Nananka Randle, Licensing Manager	4 March 2021

*It is suggested that the Licensing Sub Committee date of 3 February 2021 be used for this additional Licensing Committee meeting.