

Licensing and General Purposes Committee

AGENDA

DATE: Tuesday 1 March 2011

TIME: 7.30 pm

VENUE: Committee Rooms 1 & 2,
Harrow Civic Centre

MEMBERSHIP (Quorum 4)

Chairman: Councillor Mano Dharmarajah

Councillors:

Mrinal Choudhury	Husain Akhtar
David Gawn	John Cowan
Thaya Idaikkadar	Susan Hall
Krishna James	Manji Kara
Ajay Maru (VC)	John Nickolay
Raj Ray	Stanley Sheinwald
Krishna Suresh	Simon Williams

Reserve Members:

- | | |
|-------------------|---------------------|
| 1. Ben Wealthy | 1. Mrs Camilla Bath |
| 2. Nizam Ismail | 2. Stephen Wright |
| 3. Phillip O'Dell | 3. Ramji Chauhan |
| 4. Sachin Shah | 4. Stephen Greek |
| 5. Ann Gate | 5. – |
| 6. Sue Anderson | 6. – |
| 7. Bill Phillips | 7. – |
| 8. Varsha Parmar | |

Contact: Damian Markland, Democratic Services Officer
Tel: 020 8424 1785 E-mail: damian.markland@harrow.gov.uk

AGENDA - PART I

1. ATTENDANCE BY RESERVE MEMBERS

To note the attendance at this meeting of any duly appointed Reserve Members.

Reserve Members may attend meetings:-

- (i) to take the place of an ordinary Member for whom they are a reserve;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) the meeting notes at the start of the meeting at the item 'Reserves' that the Reserve Member is or will be attending as a reserve;
- (iv) if a Reserve Member whose intention to attend has been noted arrives after the commencement of the meeting, then that Reserve Member can only act as a Member from the start of the next item of business on the agenda after his/her arrival.

2. DECLARATIONS OF INTEREST

To receive declarations of personal or prejudicial interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Committee, Sub Committee, Panel or Forum;
- (b) all other Members present in any part of the room or chamber.

3. MINUTES (Pages 1 - 10)

That the minutes of the meeting held on 22 November 2010 be taken as read and signed as a correct record.

4. PUBLIC QUESTIONS

To receive questions (if any) from local residents/organisations under the provisions of Committee Procedure Rule 17 (Part 4B of the Constitution).

5. PETITIONS

To receive petitions (if any) submitted by members of the public/Councillors under the provisions of Committee Procedure Rule 15 (Part 4B of the Constitution).

6. DEPUTATIONS

To receive deputations (if any) under the provisions of Committee Procedure Rule 16 (Part 4B) of the Constitution.

7. CONSIDERATION OF ADOPTION OF SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED BY SECTION 27 OF THE POLICING AND CRIME ACT 2009 (Pages 11 - 64)

Report of the Divisional Director Environmental Services.

8. INFORMATION REPORT - EARLY RETIREMENT UPDATE (Pages 65 - 68)

Report of the Corporate Director Finance.

9. INFORMATION REPORT - VOLUNTARY SEVERANCE SCHEME (Pages 69 - 72)

Report of the Assistant Chief Executive.

10. EXCLUSION OF THE PRESS AND PUBLIC

To resolve that the press and public be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of confidential information in breach of an obligation of confidence, or of exempt information as defined in Part I of Schedule 12A to the Local Government Act 1972:

<u>Agenda Item No</u>	<u>Title</u>	<u>Description of Exempt Information</u>
11.	Early Retirement Update Appendix	Information under paragraphs 3 and 4 (contains information relating to the financial or business affairs of any particular person / information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter).
12.	Voluntary Severance Scheme Appendix	Information under paragraphs 3 and 4 (contains information relating to the financial or business affairs of any particular person / information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter).

AGENDA - PART II

11. EARLY RETIREMENT UPDATE APPENDIX (Pages 73 - 74)

Appendix to the report of the Corporate Director Finance, item 8.

12. VOLUNTARY SEVERANCE SCHEME APPENDIX (Pages 75 - 76)

Appendix to the report of the Assistant Chief Executive, item 9.

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LICENSING AND GENERAL PURPOSES COMMITTEE MINUTES

22 NOVEMBER 2010

Chairman: * Councillor Mano Dharmarajah

Councillors:

* Husain Akhtar	* Krishna James
* Mrs Camilla Bath (1)	* Manji Kara
* Mrinal Choudhury	* Ajay Maru
* John Cowan	* John Nickolay
* David Gawn	* Raj Ray
* Susan Hall	* Krishna Suresh
* Thaya Idaikkadar	* Simon Williams

* Denotes Member present

(1) Denotes category of Reserve Members

21. Attendance by Reserve Members

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Members:

Ordinary Member

Reserve Member

Councillor Stanley Sheinwald

Councillor Camilla Bath

22. Declarations of Interest

RESOLVED: To note that the following interests were declared:

Agenda Item 6 - Determination of Application to Renew Pet Shop Licence for Sylvesters Pet Shop, 257 Long Elms, Harrow Weald, HA3 6LE

Councillor Susan Hall declared a personal interest in that she had received e-mails from the applicant, Mr Wood, and was also a Ward Councillor for the

area in which Sylvesters Pet Shop was located. She would remain in the room whilst the matter was considered and voted upon.

Councillor Camilla Bath declared a personal interest in that her brother lived in Waterford, a city referred to in the agenda. She would remain in the room whilst the matter was considered and voted upon.

Councillor Thaya Idaikkadar declared a prejudicial interest in that he was the Portfolio Holder for Property and Major Contracts. As Sylvesters Pet Shop occupied Council property, he would leave the room whilst the matter was considered and voted upon.

23. Minutes

An officer stated that the minutes circulated with the agenda contained an error in that certain content had been duplicated. The error was limited to the document circulated with the agenda and Members were assured that the correct minutes had been published on the Council's website. Members were provided with a copy of the published minutes for reference.

RESOLVED: That the minutes of the meeting held on 6 September 2010 be taken as read and signed as a correct record.

24. Public Questions and Petitions

RESOLVED: To note that no public questions were put, or petitions received at this meeting under the provisions of Committee Procedure Rules 17 and 16 (Part 4B of the Constitution) respectively.

25. Deputations

The Chairman stated that the Committee had been requested to determine an application to grant a pet shop licence for Sylvesters Pet Shop, 257 Long Elms, Harrow Weald, HA3 6LE. In order to allow both the applicant and the Licensing Authority the opportunity to make representations, the Committee agreed to suspend Committee Procedure Rule 16, thereby allowing both parties 10 minutes each to outline their respective cases after which Members would have the opportunity to ask questions.

The applicant, Mr Wood, made his representation to the Committee. He stated the following:

- the pet shop had originally opened in June 2006 following significant investment. The property was owned by the Council and the previous tenant had vacated the premise with rent arrears. In contrast, he had always paid his rent on time;
- he had submitted his pet shop licence renewal application in March 2010 and Ms Khan of the Council's Licensing Authority had subsequently visited the premises. Following the inspection Mr Khan had stated that he was happy with what he had seen and that the new

licence would be issued shortly. However, eight months after this visit, no licence had yet been issued;

- he was of the view that there were personality issues within the Council's Licensing Department which had delayed the processing of the application. Many of the complaints the Council had received against Sylvesters Pet Shop had not been shared with the owner and therefore he had been unable to take any action or determine whether the complaints were valid;
- Sylvesters Pet Shop employed a number of local people and if the licence was not granted they would be made redundant. The conditions of the premises' lease meant that the building could only be used as a pet shop;
- the documents contained within the agenda pack were one-sided and did not consider the positive impact Sylvesters Pet Shop had on the local area;
- he had requested that the hearing be postponed to allow him to submit a more comprehensive response to the allegations being made by the Licensing Authority. This request had been denied and he felt that the Council was not complying with the principles of natural justice.

Speaking on behalf of the Licensing Authority, Miss Forde made her representation to the Committee. She stated the following:

- the Council had noticed an increase in the number of complaints relating to Sylvesters Pet Shop. Complaints had been received from customers, a vet and the RSPCA. The majority of complaints related to the sale of unhealthy puppies and the misrepresentation of non-pedigree dogs as pedigree;
- Mr Wood had been requested to provide details of his breeders, as required by the conditions of his licence. It had taken Mr Wood 3 months to supply this information and much of the data was incorrect or lacking in detail. Most of the breeders utilised by Mr Wood were based in the Republic of Ireland where breeders did not require a licence to operate;
- if Mr Wood continued to source his dogs from the Republic of Ireland, the Licensing Authority would want safeguards put in place. A number of licence conditions had already been proposed by the Licensing Authority, but Mr Wood had only accepted or partially accepted some. It was felt that the cost implications of any conditions would need to be carefully considered by the Committee;
- the adverts contained within the agenda demonstrated that Mr Wood purported to source dogs only from licensed British breeders. However, it had been established that Mr Wood in fact sourced most of

his dogs from the Republic of Ireland where there were no licensing requirements.

Following questions from the Committee, Mr Wood clarified that:

- if the licence was granted he would try hard to ensure any conditions were complied with;
- he had only recently been made aware of the complaints that had been received by the Licensing Authority. As a result he had not had enough time to look into all the issues that had been raised. However, he had compared the complaints against those recorded in his own complaints register and had only been able to identify a few of the cases. He believed that some of the complaints were likely to be vexatious;
- he did not agree with all the concerns that had been raised by the Licensing Authority;
- he had not felt it necessary to address all the issues raised by the Licensing Authority in his representation to the Committee as his solicitors had already responded to most points;
- he looked after all his animals and if he had any concerns over an animal's wellbeing he sought the advice of his vet;
- whilst he took all complaints seriously, those referred to by the licensing authority had been submitted directly to the Council without his knowledge. As he had only been made aware of the issues 10 days before the hearing, limited progress had been made in resolving the alleged issues. However, his vet was looking into all the complaints;
- he estimated that approximately 2% of dogs obtained from licensed breeders had to be returned due to ill health;
- he relied on a licensed transporter to collect and deliver dogs to his pet shop. However, he was in direct phone contact with the breeders and therefore could ensure the quality of his stock. The majority of breeders had been introduced to him through family members living in the Republic of Ireland;
- no dogs were sourced from Offaly Farm.

Following questions from the Committee, Miss Forde clarified that:

- every complaint received by the Licencing Authority had been taken up with Mr Wood;
- it was not considered that any of the complaints were vexatious as all appeared to be from different individuals;

- concerns had been raised in 2007 that the two-tier holding pens used at the pet shop did not have a solid base, allowing droppings to fall into the pens below. An inspection in 2009 found that this problem had not been addressed;
- no photos had been taken during previous inspections. Inspecting officers conducted inspections both on their own and with colleagues;
- the Licensing Authority was aware of an incident where a customer was offered a refund on the condition that they did not report the matter to the Council;
- due to the amount of time it had taken Mr Wood to provide details of his breeders, the Licensing Authority was unsure whether he was able to ensure the quality of his stock.

26. Exclusion of the Press and Public

RESOLVED: That the press and public be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of confidential information in breach of an obligation of confidence, or of exempt information as defined in Part I of Schedule 12A to the Local Government Act 1972 for the reasons set out below:

<u>Item</u>	<u>Title</u>	<u>Reason</u>
6.	Determination of Application to Renew Pet Shop Licence for Sylvesters Pet Shop, 257 Long Elms, Harrow Weald, HA3 6LE	Information under paragraph 3 as it contained information relating to the financial or business affairs of any particular person (including the authority holding that information).
8.	INFORMATION REPORT - Non-Executive Decision: Flexible Retirement under Regulation 18 of the Local Government Pension Scheme Regulations 2007 (as amended)	Information under paragraph 1 as it contained information relating to any individual.

RESOLVED ITEMS

27. Determination of Application to Renew Pet Shop Licence for Sylvesters Pet Shop, 257 Long Elms, Harrow Weald, HA3 6LE

Having heard the representations of both the applicant and the Licensing Authority, the Committee considered the application.

RESOLVED: That the licence for Sylvesters Pet Shop be granted, subject to the following conditions:

1. Animals are not permitted to be kept in wired cages.
2. Mixing of breeds of dog is not permitted save where one dog of a particular litter remains. In this situation it is acceptable to mix only this one remaining dog with dogs of a similar breed and size.
3. A thermometer capable of measuring the minimum and maximum temperatures within the shop is to be provided and accurate records kept of temperatures. Adequate measures must be taken to ensure that the minimum temperature does not fall below acceptable/comfort levels.
4. All pens for holding dogs (including isolation pens) should be graduated to allow for fall of drainage and a drain should be in place at the lowest point. The licence holder is to ensure that this condition is implemented within 3 months of notification.
5. All pens for holding dogs (including isolation pens) should contain a raised sleeping area for the puppies.
6. No dog shall be sourced from a breeder unless the breeder is licensed, or where there is no licensing requirement, the local authority will where appropriate appoint an independent person to conduct an inspection of the breeder's premises to verify that animal welfare is to an acceptable standard i.e. an "approved breeder". Where it is deemed that the breeder's premises are not of acceptable standards, the licence holder will be informed and will cease to source dogs from this breeder until such time as a re-inspection confirms that the premises conforms to acceptable animal welfare standards. The Licence Holder shall be responsible for the cost to be incurred by the Local Authority for purposes of this condition.
7. The licensee shall ensure that dogs sold from the premises are purchased direct from a licensed breeder or where there is no licensing requirement, from an "approved breeder" as detailed in condition 6 above. It is not permissible to obtain a dog from any dealer or through an agent or any other intermediary, who has acquired the dog or has the dog in their care.
8. No dogs with docked tails are permitted to be displayed for sale or sold from this premises save for where a dogs' tail has been docked for veterinary reasons. This reason and the veterinary surgeon that carried out the procedure, to be recorded in the register of the premises.
9. No dog under 8 weeks old is to be displayed for sale or shown to the members of the public.

10. On arrival at the premises, dogs are to be held in an isolation area for a period of 5 days from the date of arrival to allow for rest and recuperation. The dogs are not to be shown to members of the public or displayed for sale during this time.
11. All dogs to be microchipped by a suitably qualified person within the first 5 days from date of arrival at the premises. Once chipped, all dogs to be vaccinated within the first 5 days from date of arrival at the premises unless advised otherwise by a veterinary surgeon. Where a veterinary surgeon has advised against vaccination, the name of the veterinary surgeon and the veterinary reason for not vaccinating to be recorded in the register at the premises.
12. All kittens to be microchipped by a suitably qualified person within the first 5 days from the date of arrival at the premises.
13. All kittens to be vaccinated between the age of 8 and 10 weeks old unless previously sold or advised otherwise by a veterinary surgeon. Where a veterinary surgeon has advised against vaccination, the name of the veterinary surgeon and the veterinary reason for not vaccinating to be recorded in the register at the premises.
14. All pens (including isolation pens) to have information in a form of clipboard or similar showing chip numbers, breed and ages of litter held in each pen.
15. A register is to be maintained at the premises, of all animals on the premises including the chip numbers, age, date of arrival and details of origin including the name, address and contact telephone number of the breeder of each animal and the breeder's licence number and issuing authority where applicable. These records are to be produced on request to authorised officers.
16. Records of all veterinary treatment for each animal to be kept at the premises including details of all vaccinations, chipping and any other veterinary treatment administered to that animal. Records to include dates of treatments and the details of the veterinary surgeon and practice that administered the treatments and to be maintained for at least 12 months from the date of the sale of the animal. The licence holder unreservedly authorises the local authority to contact and obtain the details of any treatment from the veterinary surgeon or practice who administered the treatment when necessary.
17. The licensee must make every effort to ensure that animals delivered to the premises, have been transported in a suitable manner. Records to be kept of the transporter's name, a copy of the transporter's licence issued by DEFRA, dates of deliveries and the registration number of the vehicles delivering the animals. These records are to be produced on request to authorized officers.

18. Date and approximate times of deliveries of animals and the details of animals being delivered (age, breed & origin) to be provided to the licensing authority on request.
19. All purchasers of animals are to be supplied with details of the animals' origin, breed, age, vaccination details and the responsible veterinarian's contact details as well as details of the animal's current diet or a two week supply of the animal's current diet, in addition to expert pet care advice relating to the particular animal being sold.
20. Prominent signage is to be displayed at the premises informing customers that only puppies that are 8 weeks old are permitted to be displayed for sale or sold at this premises.
21. The licensee shall maintain an up to date register of all complaints notified directly or indirectly to the licensee, in relation to any animal sold from the premises, and such register shall be made immediately available to Licensing Officers of the local authority on request. Such register should include details of the date of the complaint, the animal concerned, the nature of the complaint, and the steps taken to resolve the complaint.
22. Maximum stocking capacities: (these are to be determined and added to licence following completion of any necessary works at the premises in light of the above conditions and will be determined following inspection by Licensing Officers). The pet shop should ensure compliance with the maximum stocking capacities set by the licensing officers following inspection of the premises.

Unless otherwise stated, these conditions are to take effect immediately. For the sake of clarity, the above conditions replace all seven conditions on the pet shop licence that expired on 31/03/10. Harrow's standard pet shop conditions will nonetheless apply to the new licence.

In light of the conditions that the Committee is including on this pet shop licence, and particularly in light of the issues that have been raised during the determination of this licence application, the Committee would like to remind the licensee that only authorised Licensing Officers from this authority will, from time to time, attend the premises to inspect it and to ensure compliance with the above conditions (and if requested, upon production of authority). And as per the legislation, and they should not be wilfully obstructed or delayed, as it is an offence to do so.

28. INFORMATION REPORT - Non-Executive Decision: Flexible Retirement under Regulation 18 of the Local Government Pension Scheme Regulations 2007 (As amended)

The Committee received a report of the Director of Legal and Governance Services which detailed two decisions that had been taken under the Council's Non-Executive Decision Procedure in relation to flexible retirement.

The Chairman queried why the two cases had not been considered by the Early Retirement Sub-Committee. An officer explained that the Non-Executive Decisions had been required as it had not been possible to call an Early Retirement Sub-Committee meeting during the summer recess and the flexible retirement dates had fallen within this period. The officer added that the Council's Constitution required all decisions taken under the Non-Executive Decision Procedure to be reported to the appropriate Committee. The Chairman stated that, in the future, he would prefer the Early Retirement Sub-Committee to consider all cases.

RESOLVED: That the report be noted.

(Note: The meeting, having commenced at 7.30 pm, closed at 9.45 pm).

(Signed) COUNCILLOR MANO DHARMARAJAH
Chairman

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**REPORT FOR: Licensing and General
Purposes Committee**

Date of Meeting: 1 March 2011

Subject: Consideration of adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009

Responsible Officer: John Edwards, Divisional Director
Environmental Services

Exempt: No

Enclosures:

- Letter from Alan Campbell MP, former Parliamentary Under Secretary of State outlining the changes to the law
- Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
- Section 27 of the Policing and Crime Act 2009
- Proposed Sex Establishment Licensing Policy
- Six Consultation Responses

Section 1 – Summary and Recommendations

This report summarises the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, by section 27 of the Policing and Crime Act 2009 relating to the creation of a new category of sex establishment known as 'sexual entertainment venue', and provides the responses to the public consultation exercise, and a proposed Sex Establishment Licensing Policy.

Recommendations:

The Committee is requested to:

1. Consider the responses to the public consultation;
2. Consider whether Harrow should adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009, and if so, refer the matter to Full Council for approval;
3. Consider the proposed Sex Establishment Licensing Policy and either recommend its adoption to Full Council for approval, propose modifications, or reject it.

Section 2 – Report

1. Background

- 1.1. The Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) introduced a licensing regime to control sex establishments. The regime is only enforceable if the relevant part of the 1982 Act is adopted by a local authority. Harrow Council adopted the relevant part of the 1982 Act, but this legislation has recently been amended to extend the definition of ‘sex establishment’ and so consideration needs to be given to whether the council should resolve that this amended version should apply to its area.

2. Current situation

- 2.1 Section 27 of the Policing and Crime Act 2009 inserts a new category of “sex establishment” known as a “sexual entertainment venue” into Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This section, if adopted by a local authority, will require premises in that area that are to be used as a sex establishment (including a sexual entertainment venue (e.g. a lap dancing club)), to obtain a (sex establishment) licence from the authority.
- 2.2. The legislation is not mandatory and local authorities have the flexibility to decide whether and, if so, when the new provisions should come into force in their area. However, any authorities that have not adopted the regime by 6 April 2011 have to consult local people about the issue as soon as practicable thereafter. Harrow has already carried out the consultation, the results of which are included with this report.
- 2.3 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.’
- 2.4 “Relevant entertainment” is defined as:

‘(a) any live performance, or
(b) any live display of nudity, which is of such nature that, ignoring financial gain, it must be reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether verbally or other means).’
- 2.5 If the council resolves that schedule 3 of the 1982 Act as amended should apply to its area, this will bring the licensing of lap dancing and pole dancing clubs and other similar venues, under the regime of the 1982 Act, which is currently used to regulate establishments such as sex shops and sex cinemas. There is an exemption for premises that provide relevant entertainment on an infrequent basis.

- 2.5 Should the Committee decide that the amended Schedule 3 of the 1982 Act should not be adopted, the current licensing regime under the 1982 Act will continue so that any premises that operate as a sex shop or sex cinema in Harrow will require a licence from the local authority. However any premises operating as a sexual entertainment venue offering relevant entertainment such as lap dancing or pole dancing, will not require a licence under the 1982 Act and may be able to operate unregulated by the local authority.

3. Consultation

- 3.1 A full public consultation was carried out from 11th October – 31st December 2010 asking for the public's view on whether Section 27 Policing and Crime Act 2009 (which sets out the amendments to Schedule 3 of the 1982 Act) should be adopted in the borough of Harrow.
- 3.2 The consultation also sought comments on the proposed Sex Establishment Licensing Policy for Harrow.
- 3.3 Six responses were received during the consultation which are discussed below.

4. Consultation Responses

- 4.1 Six responses were received during the consultation period as detailed above in section 3. Copies of all of the responses are attached to this report.
- 4.2 All of the responses received support the Section 27 Policing and Crime Act 2009 changes for introduction in Harrow so that any "sexual entertainment venue" (see section 2.3 above) will be required to be licensed by the local authority.
- 4.3 In relation to the proposed Sex Establishment Licensing Policy, three of the responses received expressly supported the proposal that the appropriate number of sex establishments in each ward in Harrow ("relevant locality") should be nil.
- 4.4 Two of the respondents disagreed with the above proposal. One proposed that the appropriate number of sex establishments per ward in Harrow should be 'one, provided the establishment is not in a residential area', and the other proposed 'not more than one' as this would 'not prejudice the public wish in all cases and better meets the Human Rights Act 1998'.
- 4.5 With regard to the proposal to adopt a presumption of refusal of applications for sex establishment licences, three of the respondents supported this proposal, one supported it subject to the proposed change to allow up to one such establishment, and one respondent disagreed.

5. Proposed Sex Establishment Licensing Policy

- 5.1 The proposed Sex Establishment Licensing Policy aims to set out how the local authority will assess applications for Sex Establishment Licences and under what circumstances such licences may be refused or granted.
- 5.2 Section 12(3) of Schedule 3 of the 1982 Act outlines some of the grounds on which a local authority may refuse an application for a Sex Establishment Licence. These grounds are:
- a.) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons; or
 - 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; or
 - c.) that the number of sex establishments 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; or
 - d.) that the grant or renewal of the licence would be inappropriate, having regard to:
 - i) the character of the relevant locality; or
 - ii) the use to which any premises in the vicinity are put; or
 - iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 5.3 Under part (c) above, the local authority can refuse an application for a sex establishment licence if the number of sex establishments in the relevant locality at the time the application is made, is equal to or exceeds the number which the authority considers is appropriate for that locality.
- 5.4 When determining the appropriate number of sex establishments in each relevant locality, the 1982 Act provides that the appropriate number may be nil.
- 5.5 The proposed Sex Establishment Licensing Policy proposes that each ward in Harrow will be considered as a “relevant locality” for the purposes of the 1982 Act and the appropriate number of sex establishments in each relevant locality will be nil. This policy has been drafted on the assumption that the appropriate number will be nil but if the Committee considers that a different number is appropriate, modifications to the policy will need to be made.
- 5.6 Furthermore the proposed Sex Establishment Licensing Policy proposes that whilst all applications for sex establishment licences for premises in the borough of Harrow will be considered on their own

merit, there will be a presumption of refusal of applications for such licences.

6. Main options

6.1 The main options for the Committee, having taken into account the consultation responses, are to:

- Decide to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009, and if so, refer the matter to Full Council for approval

Or

- Decide not to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended

AND

- Decide to adopt the proposed Sex Establishment Licensing Policy as drafted, and if so to recommend it to Full Council for approval

- Propose modifications to the Sex Establishment Licensing Policy

- Reject/decide not to adopt the Sex Establishment Licensing Policy

7. Financial Implications

7.1 No financial implications

8. Equalities Impact Implications

8.1 An equalities impact screening process was undertaken and no adverse impacts were identified.

9. Risk Management Implications

9.1 Should the Committee decide not to adopt the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act, any premises operating as a sexual entertainment venue offering relevant entertainment such as lap dancing or pole dancing, will not require a licence under the 1982 Act and may be able to operate unregulated by the local authority.

10. Corporate Priorities

10.1 By adopting the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act and a policy on Sex Establishment Licensing, the Council is contributing towards the corporate priority of building stronger communities by adequately regulating sex establishments including sexual entertainment venues, and by providing clear guidance through policy to operators of such

premises on how applications for sex establishment licences will be assessed and granted.

Section 3 - Statutory Officer Clearance

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 16 February 2011		
Name: Paresh Metha	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 17 February 2011		

Section 4 - Contact Details and Background Papers

Contact: P Sivashankar, Licensing Service Manager, ext 6237

Background Papers:

- Letter from Alan Campbell MP, former Parliamentary Under Secretary of State outlining the changes to the law
- Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
- Section 27 of the Policing and Crime Act 2009
- Proposed Sex Establishment Licensing Policy
- Six Consultation Responses

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Home Office

Alan Campbell MP
PARLIAMENTARY UNDER SECRETARY OF STATE

2 Marsham Street, London SW1P 4DF
www.homeoffice.gov.uk

I am writing to make you aware that from the 6th April 2010 local authorities in England will be able to adopt additional powers to regulate lap dancing clubs and similar venues. The powers will be commenced in Wales in due course on a date to be decided by the Welsh Ministers.

Section 27 of the Policing and Crime Act 2009 amends Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 to introduce a new category of sex establishment called 'sexual entertainment venue', which, if adopted by a local authority, will require premises in that area who provide 'relevant entertainment', such as lap dancing, to obtain a sex establishment licence. There is an exemption for premises that provide relevant entertainment on an infrequent basis.

On 12th February, following a 12-week consultation on the transitional provisions, the Government confirmed that where the provisions are adopted all lap dancing clubs, including existing venues operating lawfully under the Licensing Act 2003, will be required to apply for a sex establishment licence. Under these arrangements existing operators will be able to continue to operate for 12-months after the new provisions come into force in their area or the determination of any application which they submit for a licence during that period, whichever is the later.

The purpose of the new legislation is to empower local communities. We know that many local communities feel that the existing legislation does not adequately address their concerns with regards to lap dancing clubs opening in their neighbourhoods. Under the new regime, local people will be able to oppose applications for lap dancing clubs on wider grounds than is currently allowed, such as that it would be inappropriate given the character of an area or the use to which other premises in the vicinity are put. Local authorities will also be able to set a limit on the number of lap dancing clubs they consider appropriate for a particular locality.

The legislation is not mandatory for local authorities. We are aware that not all local authorities have lap dancing clubs in their area. Therefore, local authorities will have the flexibility to decide whether and, if so, when the new provisions should come into force in their area. However, we would expect

local authorities to consider the views of local people and, indeed, local authorities which have not adopted the new regime by 6th April 2011 must consult local people about whether they should do so as soon as is reasonably practicable after that date.

I would encourage all local authorities to engage with existing operators at the earliest opportunity to ensure they are aware of what these changes mean for them and what action they will need to take in order to comply with the new regime.

The necessary orders that will bring these provisions into force will be published shortly. The Home Office will also be publishing guidance which will be available on the Home Office website.

A handwritten signature in black ink that reads "Alan Campbell". The signature is written in a cursive, slightly slanted style.

ALAN CAMPBELL

UK Parliament Acts/L/LO-LT/Local Government (Miscellaneous Provisions) Act 1982 (1982 c 30)/SCHEDULE 3 Control of Sex Establishments

SCHEDULE 3

CONTROL OF SEX ESTABLISHMENTS

Section 2

Saving for existing law

1

Nothing in this Schedule--

- (a) shall afford a defence to a charge in respect of any offence at common law or under an enactment other than this Schedule; or
- (b) shall be taken into account in any way--
 - (i) at a trial for such an offence; or
 - (ii) in proceedings for forfeiture under section 3 of the Obscene Publications Act 1959 or *section 5 of [the Schedule to] the Protection of Children Act 1978*; or
 - (iii) in proceedings for condemnation under Schedule 3 to the Customs and Excise Management Act 1979 of goods which section 42 of the Customs Consolidation Act 1876 prohibits to be imported or brought into the United Kingdom as being indecent or obscene; or
- (c) shall in any way limit the other powers exercisable under any of those Acts.

Meaning of "sex establishment"

2

In this Schedule "sex establishment" means a [sexual entertainment venue,] sex cinema[. . .], a hostess bar] or a sex shop.

[Meaning of "sexual entertainment venue"

2A

- (1) In this Schedule "sexual entertainment venue" means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph "relevant entertainment" means--
 - (a) any live performance; or
 - (b) any live display of nudity;which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (3) The following are not sexual entertainment venues for the purposes of this Schedule--

- (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time--
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
 - (c) premises specified or described in an order made by the relevant national authority.
- (4) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).
- (5) But no order under sub-paragraph (4) may--
- (a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or
 - (b) provide for shorter intervals between such occasions.
- (6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.
- (7) Any power of the relevant national authority to make an order under this paragraph--
- (a) is exercisable by statutory instrument;
 - (b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.
- (13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

(14) In this paragraph--

"audience" includes an audience of one;

"display of nudity" means--

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) in the case of a man, exposure of his pubic area, genitals or anus;

"the organiser", in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of--

- (a) the relevant entertainment; or
- (b) the premises;

"premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

"relevant national authority" means--

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.]

Meaning of "sex cinema"

3

(1) In this Schedule, "sex cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which--

- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage--
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; or
- (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

but does not include a dwelling-house to which the public is not admitted.

(2) No premises shall be treated as a sex cinema by reason only--

[(a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation]; or

[(b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of [the Cinemas Act 1985]].

[3A

. . .]

[Meaning of "hostess bar"**3B**

- (1) Subject to sub-paragraph (2) below, in this Schedule "hostess bar" means--
- (a) any premises used for a business which consists, whether in whole or in part, of the offering, expressly or by implication, whether on payment of a fee or not, of the provision of companions for customers on the premises; or
 - (b) any premises in respect of which any impression, by whatever means, is given to customers, or potential customers, that a performance, entertainment, service, exhibition or other experience of a sexual nature is available on the said premises; or
 - (c) any premises in respect of which any impression, by whatever means, is given to customers, or potential customers, that alcoholic refreshments are available on the said premises despite the premises not being the subject of a premises licence or a club certificate under the 2003 Act.
- (2) The following premises are not hostess bars for the purposes of this paragraph, namely--
- (a) premises in which the sale to customers for consumption of alcohol is not a licensable activity under or by virtue of the 2003 Act;
 - (b) premises in respect of which there is in force--
 - (i) a licence granted by the council under section 21 (licensing of public exhibitions, etc) of the Greater London Council (General Powers) Act 1966 (c xxviii);
 - (ii) a premises licence granted under Part 3 of the 2003 Act;
 - (iii) a club premises certificate granted under Part 4 of the 2003 Act;
 - (iv) a temporary event notice given under the 2003 Act, by virtue of which the premises may be used for the supply of alcohol (within the meaning of section 14 of that Act);
 - (v) a licence under Part II of the Gaming Act 1968 (c 65),
- (3) Sub-paragraph (2)(b) applies--
- (a) only during the hours permitted by the licence or notice there mentioned, and
 - (b) only if provided that the premises are in use wholly or mainly and bona fide for the purpose authorised by the licence, notice or certificate.
- (4) In sub-paragraph (1) above, "premises" includes any vehicle, vessel or stall.
- (5) In this paragraph, "the 2003 Act" means the Licensing Act 2003 (c 17).]

Meaning of "sex shop" and "sex article"**4**

- (1) In this Schedule "sex shop" means any premises, vehicle, vessel or stall used for a business which

consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating--

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

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

(3) In this Schedule "sex article" means--

- (a) anything made 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; and
- (b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies--

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

Miscellaneous definitions

5

(1) In this Schedule--

"the appropriate authority" means, in relation to any area for which a resolution has been passed under section 2 above, the local authority who passed it;

"the chief officer of police", in relation to any locality, means the chief officer of police for the police area in which the locality is situated; and

"vessel" includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

(2) This Schedule applies to hovercraft as it applies to vessels.

Requirement for licences for sex establishments

6

(1) Subject to the provisions of this Schedule, no person shall in any area in which this Schedule is in force use any premises, vehicle, vessel or stall as a sex establishment except under and in accordance with the terms of a licence granted under this Schedule by the appropriate authority.

(2) Sub-paragraph (1) above does not apply to the sale, supply or demonstration of articles which--

- (a) are manufactured for use primarily for the purposes of birth control; or
- (b) primarily relate to birth control.

7

(1) Any person who--

- (a) uses any premises, vehicle, vessel or stall as a sex establishment; or
- (b) proposes to do so,

may apply to the appropriate authority for them to waive the requirement of a licence.

(2) An application under this paragraph may be made either as part of an application for a licence under this Schedule or without any such application.

(3) An application under this paragraph shall be made in writing and shall contain the particulars specified in paragraph 10(2) to (5) below and such particulars as the appropriate authority may reasonably require in addition.

(4) The appropriate authority may waive the requirement of a licence in any case where they consider that to require a licence would be unreasonable or inappropriate.

(5) A waiver may be for such period as the appropriate authority think fit.

(6) Where the appropriate authority grant an application for a waiver, they shall give the applicant for the waiver notice that they have granted his application.

(7) The appropriate authority may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

Grant, renewal and transfer of licences for sex establishments

8

[(1)] Subject to [sub-paragraph (2) and] paragraph 12(1) below, the appropriate authority may grant to any applicant, and from time to time renew, a licence under this Schedule for the use of any premises, vehicle, vessel or stall specified in it for a sex establishment on such terms and conditions and subject to such restrictions as may be so specified.

[(2)] No term, condition or restriction may be specified under sub-paragraph (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005 in respect of the premises, vehicle, vessel or stall.]

9

(1) Subject to paragraphs 11 and 27 below, any licence under this Schedule shall, unless previously cancelled under paragraph 16 [or 27A below] or revoked under paragraph 17(1) below, remain in force for one year or for such shorter period specified in the licence as the appropriate authority may think fit.

(2) Where a licence under this Schedule has been granted to any person, the appropriate authority may, if they think fit, transfer that licence to any other person on the application of that other person.

10

(1) An application for the grant, renewal or transfer of a licence under this Schedule shall be made in writing to the appropriate authority.

(2) An application made otherwise than by or on behalf of a body corporate or an unincorporated body shall state--

- (a) the full name of the applicant;
- (b) his permanent address; and
- (c) his age.

(3) An application made by a body corporate or an unincorporated body shall state--

- (a) the full name of the body;
- (b) the address of its registered or principal office; and
- (c) the full names and private addresses of the directors or other persons responsible for its management.

(4) An application relating to premises shall state the full address of the premises.

(5) An application relating to a vehicle, vessel or stall shall state where it is to be used as a sex establishment.

(6) Every application shall contain such particulars as the appropriate authority may reasonably require in addition to any particulars required under sub-paragraphs (2) to (5) above.

(7) An applicant for the grant, renewal or transfer of a licence under this Schedule shall give public notice of the application.

(8) Notice shall in all cases be given by publishing an advertisement in a local newspaper circulating in the appropriate authority's area.

(9) The publication shall not be later than 7 days after the date of the application.

(10) Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.

(11) Every notice under this paragraph which relates to premises shall identify the premises.

(12) Every such notice which relates to a vehicle vessel or stall shall specify where it is to be used as a sex establishment.

(13) Subject to sub-paragraphs (11) and (12) above, a notice under this paragraph shall be in such form as the appropriate authority may prescribe.

[(14) A copy of an application for the grant, renewal or transfer of a licence under this Schedule shall be sent to the chief officer of police--

- (a) in a case where the application is made by means of a relevant electronic facility, by the

appropriate authority not later than 7 days after the date the application is received by the authority;

(b) in any other case, by the applicant not later than 7 days after the date of the application.

(14A) In sub-paragraph (14) above "relevant electronic facility" means--

(a) the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009, or

(b) any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.]

(15) Any person objecting to an application for the grant, renewal or transfer of a licence under this Schedule shall give notice in writing of his objection to the appropriate authority, stating in general terms the grounds of the objection, not later than 28 days after the date of the application.

(16) Where the appropriate authority receive notice of any objection under sub-paragraph (15) above, the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant.

(17) The appropriate authority shall not without the consent of the person making the objection reveal his name or address to the applicant.

(18) In considering any application for the grant, renewal or transfer of a licence the appropriate authority shall have regard to any observations submitted to them by the chief officer of police and any objections of which notice has been sent to them under sub-paragraph (15) above.

(19) The appropriate authority shall give an opportunity of appearing before and of being heard by a committee or sub-committee of the authority--

(a) before refusing to grant a licence, to the applicant;

(b) before refusing to renew a licence, to the holder; and

(c) before refusing to transfer a licence, to the holder and the person to whom he desires that it shall be transferred.

(20) Where the appropriate authority refuse to grant, renew or transfer a licence, they shall. . . give him a statement in writing of the reasons for their decision. . .

11

(1) Where, before the date of expiry of a licence, an application has been made for its renewal, it shall be deemed to remain in force notwithstanding that the date has passed until the withdrawal of the application or its determination by the appropriate authority.

(2) Where, before the date of expiry of a licence, an application has been made for its transfer, it shall be deemed to remain in force with any necessary modifications until the withdrawal of the application or its determination, notwithstanding that the date has passed or that the person to whom the licence is to be transferred if the application is granted is carrying on the business of the sex establishment.

Refusal of licences

12

(1) A licence under this Schedule shall not be granted--

(a) to a person under the age of 18; or

- (b) to a person who is for the time being disqualified under paragraph 17(3) below; or
 - (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.
- (2) Subject to paragraph 27 below, the appropriate authority may refuse--
- (a) an application for the grant or renewal of a licence on one or more of the grounds specified in sub-paragraph (3) below;
 - (b) an application for the transfer of a licence on either or both of the grounds specified in paragraphs (a) and (b) of that sub-paragraph.
- (3) The grounds mentioned in sub-paragraph (2) above are--
- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - [(c) that the number of sex establishments, 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.
- (4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c) above.
- (5) In this paragraph "the relevant locality" means--
- (a) in relation to premises, 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.

Power to prescribe standard conditions

13

- (1) Subject to the provisions of this Schedule, the appropriate authority may make regulations prescribing standard conditions applicable to licences for sex establishments, that is to say, terms,

conditions and restrictions on or subject to which licences under this Schedule are in general to be granted, renewed or transferred by them.

[(1A) No standard condition may be prescribed by regulation under sub-paragraph (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.]

(2) Regulations under sub-paragraph (1) above may make different provision--

- (a) for [sexual entertainment venues,] sex cinemas[. . .], hostess bars] and sex shops; and
- (b) for different kinds of [sexual entertainment venues,] sex cinemas[. . .], hostess bars] and sex shops.

(3) Without prejudice to the generality of sub-paragraphs (1) and (2) above, regulations under this paragraph may prescribe conditions regulating--

- (a) the hours of opening and closing of sex establishments;
- (b) displays or advertisements on or in such establishments;
- (c) the visibility of the interior of sex establishments to passers-by; and
- [(d) any change from one kind of sex establishment mentioned in sub-paragraph (2)(a) above to another kind of sex establishment so mentioned].

(4) Where the appropriate authority have made regulations under sub-paragraph (1) above, every such licence granted, renewed or transferred by them shall be presumed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless they have been expressly excluded or varied.

(5) Where the appropriate authority have made regulations under sub-paragraph (1) above, they shall, if so requested by any person, supply him with a copy of the regulations on payment of such reasonable fee as the authority may determine.

(6) In any legal proceedings the production of a copy of any regulations made by the appropriate authority under sub-paragraph (1) above purporting to be certified as a true copy by an officer of the authority authorised to give a certificate for the purposes of this paragraph shall be prima facie evidence of such regulations, and no proof shall be required of the handwriting or official position or authority of any person giving such certificate.

Copies of licences and standard conditions

14

(1) The holder of a licence under this Schedule shall keep exhibited in a suitable place to be specified in the licence a copy of the licence and any regulations made under paragraph 13(1) above which prescribe standard conditions subject to which the licence is held.

(2) The appropriate authority shall send a copy of any licence granted under this Schedule to the chief officer of police for the area where the sex establishment is situated.

Transmission and cancellation of licences

15

In the event of the death of the holder of a licence granted under this Schedule, that licence shall be deemed to have been granted to his personal representatives and shall, unless previously revoked,

remain in force until the end of the period of 3 months beginning with the death and shall then expire; but the appropriate authority may from time to time, on the application of those representatives, extend or further extend the period of three months if the authority are satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make it undesirable.

16

The appropriate authority may, at the written request of the holder of a licence, cancel the licence.

Revocation of licences

17

(1) The appropriate authority may, after giving the holder of a licence under this Schedule an opportunity of appearing before and being heard by them, at any time revoke the licence--

- (a) on any ground specified in sub-paragraph (1) of paragraph 12 above; or
- (b) on either of the grounds specified in sub-paragraph (3)(a) and (b) of that paragraph.

(2) Where a licence is revoked, the appropriate authority shall, if required to do so by the person who held it, give him a statement in writing of the reasons for their decision within 7 days of his requiring them to do so.

(3) Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the area of the appropriate authority for a period of 12 months beginning with the date of revocation.

Variation of licences

18

(1) The holder of a licence under this Schedule may at any time apply to the appropriate authority for any such variation of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.

(2) [Subject to sub-paragraph (4) below,] the appropriate authority--

- (a) may make the variation specified in the application; or
- (b) may make such variations as they think fit; or
- (c) may refuse the application.

(3) The variations that an authority may make by virtue of sub-paragraph (2)(b) above include, without prejudice to the generality of that sub-paragraph, variations involving the imposition of terms, conditions or restrictions other than those specified in the application.

[(4) No variation is to be made under this paragraph in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.]

Fees

19

An application for the grant, [variation,] renewal[. . .] or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority.

Enforcement

20

- (1) A person who--
- (a) knowingly uses, or knowingly causes or permits the use of, any premises, vehicle, vessel or stall contrary to paragraph 6 above; or
 - (b) being the holder of a licence for a sex establishment, employs in the business of the establishment any person known to him to be disqualified from holding such a licence; or
 - (c) being the holder of a licence under this Schedule, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in the licence; or
 - (d) being the servant or agent of the holder of a licence under this Schedule, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in the licence,

shall be guilty of an offence.

21

Any person who, in connection with an application for the grant, renewal or transfer of a licence under this Schedule, makes a false statement which he knows to be false in any material respect or which he does not believe to be true, shall be guilty of an offence.

22

- (1) A person guilty of an offence under paragraph 20 or 21 above shall be liable on summary conviction to a fine not exceeding [£20,000].
- (2) A person who, being the holder of a licence under this Schedule, fails without reasonable excuse to comply with paragraph 14(1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding [level 3 on the standard scale].

Offences relating to persons under 18

23

- (1) A person who, being the holder of a licence for a sex establishment--
- (a) without reasonable excuse knowingly permits a person under 18 years of age to enter the establishment; or
 - (b) employs a person known to him to be under 18 years of age in the business of the establishment,

shall be guilty of an offence.

- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding [£20,000].

Powers of constables and local authority officers

24

...

25

- (1) A constable may, at any reasonable time, enter and inspect any sex establishment in respect of which a licence under this Schedule is for the time being in force, with a view to seeing--
- (i) whether the terms, conditions or restrictions on or subject to which the licence is held are complied with;
 - (ii) whether any person employed in the business of the establishment is disqualified from holding a licence under this Schedule;
 - (iii) whether any person under 18 years of age is in the establishment; and
 - (iv) whether any person under that age is employed in the business of the establishment.
- (2) Subject to sub-paragraph (4) below, a constable may enter and inspect a sex establishment if he has reason to suspect that an offence under paragraph 20, 21 or 23 above has been, is being, or is about to be committed in relation to it.
- (3) An authorised officer of a local authority may exercise the powers conferred by sub-paragraphs (1) and (2) above in relation to a sex establishment in the local authority's area.
- (4) No power conferred by sub-paragraph (2) above may be exercised by a constable or an authorised officer of a local authority unless he has been authorised to exercise it by a warrant granted by a justice of the peace.
- (5) Where an authorised officer of a local authority exercises any such power, he shall produce his authority if required to do so by the occupier of the premises or the person in charge of the vehicle, vessel or stall in relation to which the power is exercised.
- (6) Any person who without reasonable excuse refuses to permit a constable or an authorised officer of a local authority to exercise any such power shall be guilty of an offence and shall for every such refusal be liable on summary conviction to a fine not exceeding [level 5 on the standard scale].
- [(7) ...
- (8) ...
- (9) ...
- (10) ...
- (11) ...]

[25A

- (1) A person acting under the authority of a warrant under paragraph 25(4) may seize and remove anything found on the premises concerned that the person reasonably believes could be forfeited under sub-paragraph (4).
- (2) The person who, immediately before the seizure, had custody or control of anything seized under sub-paragraph (1) may request any authorised officer of a local authority who seized it to provide a record of what was seized.
- (3) The authorised officer must provide the record within a reasonable time of the request being made.
- (4) The court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order anything--

- (a) produced to the court; and
- (b) shown to the satisfaction of the court to relate to the offence;

to be forfeited and dealt with in such manner as the court may order.

(5) But the court may not order the forfeiture of anything under sub-paragraph (4) if it (whether alone or taken together with other things being forfeited which appear to the court to have been in the custody or control of the same person) is worth more than the amount of the maximum fine specified in paragraph 22(1).

(6) Sub-paragraph (7) applies if a person claiming to be the owner of, or otherwise interested in, anything that may be forfeited applies to be heard by the court.

(7) The court may not order the forfeiture unless the person has had an opportunity to show why the order should not be made.]

Offences by bodies corporate

26

(1) Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members sub-paragraph (1) above shall apply to the acts and defaults of a member in connection with his function of management as if he were a director of the body corporate.

Appeals

27

(1) Subject to sub-paragraphs (2) and (3) below, any of the following persons, that is to say--

- (a) an applicant for the grant, renewal or transfer of a licence under this Schedule whose application is refused;
- (b) an applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
- (c) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
- (d) a holder of any such licence whose licence is revoked,

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to [a magistrates' court].

(2) An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified in paragraph 12(1) above shall not have a right to appeal under this paragraph unless the applicant seeks to show that the ground did not apply to him.

(3) An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph 12(3)(c) or (d) above shall not have the right to appeal under this paragraph.

(4) In this paragraph--

. . .

"the relevant date" means the date on which the person in question is notified of the refusal of his application, the imposition of the term, condition or restriction by which he is aggrieved or the revocation of his licence, as the case may be.

- (5) An appeal against the decision of a magistrates' court under this paragraph may be brought to the Crown Court.
- (6) Where an appeal is brought to the Crown Court under sub-paragraph (5) above, the decision of the Crown Court shall be final: . . .
- (7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.
- (8) Subject to sub-paragraphs (9) to (12) below, it shall be the duty of the appropriate authority to give effect to an order of the magistrates' court or the Crown Court.
- (9) The appropriate authority need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (5) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (10) Where a licence is revoked or an application for the renewal of a licence is refused [. . .], the licence shall be deemed to remain in force--
- (a) until the time for bringing an appeal under this paragraph has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and
- (b) where an appeal relating to the refusal of an application for such a renewal is successful and no further appeal is available, until the licence is renewed by the appropriate authority.
- [(10A) Sub-paragraph (10) does not apply if the grounds for refusing an application for the renewal of a licence are those set out in paragraph 12(3)(c) or (d) of this Schedule.]

- (11) Where--
- (a) the holder of a licence makes an application under paragraph 18 above; and
- (b) the appropriate authority impose any term, condition or restriction other than one specified in the application,

the licence shall be deemed to be free of it until the time for bringing an appeal under this paragraph has expired.

- (12) Where an appeal is brought under this paragraph against the imposition of any such term, condition or restriction, the licence shall be deemed to be free of it until the determination or abandonment of the appeal.

[Premises which are deemed sexual entertainment venues

27A

- (1) This paragraph applies if--
- (a) premises are subject to a licence for a sexual entertainment venue; and
- (b) their use would be use as such a venue but for the operation of paragraph 2A(3)(b).

- (2) This Schedule applies as if--
 - (a) the premises were a sexual entertainment venue; and
 - (b) the use or business of the premises was use as, or the business of, such a venue.
- (3) But the appropriate authority must cancel the licence if the holder of the licence asks them in writing to do so.
- (4) In this paragraph "premises" has the same meaning as in paragraph 2A.]

Provisions relating to existing premises

28

- (1) Without prejudice to any other enactment it shall be lawful for any person who--
 - (a) was using any premises, vehicle, vessel or stall as a sex establishment immediately before the date of the first publication under subsection (2) of section 2 above of a notice of the passing of a resolution under that section by the local authority for the area; and
 - (b) had before the appointed day duly applied to the appropriate authority for a licence for the establishment,

to continue to use the premises, vehicle, vessel or stall as a sex establishment until the determination of his application [. . .].

- (2) In this paragraph and paragraph 29 below "the appointed day", in relation to any area, means the day specified in the resolution passed under section 2 above as the date upon which this Schedule is to come into force in that area.

29

- (1) This paragraph applies to an application for the grant of a licence under this Schedule made before the appointed day.
- (2) A local authority shall not consider any application to which this paragraph applies before the appointed day.
- (3) A local authority shall not grant any application to which this paragraph applies until they have considered all such applications.
- (4) In considering which of several applications to which this paragraph applies should be granted a local authority shall give preference over other applicants to any applicant who satisfies them--
 - (a) that he is using the premises, vehicle, vessel or stall to which the application relates as a sex establishment; and
 - (b) that some person was using the premises, vehicle, vessel or stall as a sex establishment on 22nd December 1981; and
 - (c) that--
 - (i) he is that person; or
 - (ii) he is a successor of that person in the business or activity which was being carried on there on that date.

Commencement of Schedule

30

(1) So far as it relates to sex cinemas, this Schedule shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, . . .

(2) Subject to sub-paragraph (1) above, this Schedule shall come into force on the day on which this Act is passed.

(3) Where, in relation to any area, the day appointed under sub-paragraph (1) above falls after the day specified in a resolution passed under section 2 above as the day upon which this Schedule is to come into force in that area, the day so appointed shall, for the purposes of paragraphs 28 and 29 above, be the appointed day in relation to sex cinemas in the area.

NOTES

Initial Commencement

Specified date

Specified date (for certain purposes): 13 July 1982: see para 30(2) above.

To be appointed

To be appointed (for remaining purposes): see para 30(1) above.

Appointment

Appointment (for remaining purposes): 13 October 1982: see SI 1982/1119, art 2.

Extent

This Schedule does not extend to Scotland: see s 49(2).

Amendment

Para 13: sub-para (3)(d) substituted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(f); with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 12: in sub-para (3)(c) word "made" repealed and subsequent word in square brackets substituted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(c), with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 1: in sub-para (b)(ii) words "section 5 of" in italics repealed and subsequent words in square brackets substituted by the Police and Justice Act 2006, s 52, Sch 14, para 7.

Date in force: to be appointed: see the Police and Justice Act 2006, s 53(1)(b).

Para 2: words "sexual entertainment venue," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (2).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 2: words omitted in square brackets inserted in relation to certain London Boroughs by the Greater

London Council (General Powers) Act 1986, s 12(4)(a), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 2: words omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 2: words ", a hostess bar" in square brackets inserted by the London Local Authorities Act 2007, s 33(2), (3).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 2A: inserted by the Policing and Crime Act 2009, s 27(1), (3).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 3: sub-para (2)(a) substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 82, 85(1), (2)(a).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for transitional provisions see the Licensing Act 2003, s 200, Sch 8, Pt 1.

Para 3: sub-para (2)(b) substituted by the Cinemas Act 1985, s 24(1), Sch 2, para 16(b).

Para 3: in sub-para (2)(b) words "the Cinemas Act 1985" in square brackets substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 82, 85(1), (2)(b).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for transitional provisions and savings see the Licensing Act 2003, s 200, Sch 8, Pt 1, Pt 4, para 32.

Para 3A: inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(b), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 3A: repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 3B: inserted by the London Local Authorities Act 2007, s 33(2), (5).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 8: sub-para (1) numbered as such by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(i).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 8: in sub-para (1) words "sub-paragraph (2) and" in square brackets inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(ii).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 8: sub-para (2) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(iii).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 9: in sub-para (1) words "or 27A below" in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (4).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 10: sub-paras (14), (14A) substituted, for sub-para (14) as originally enacted, by SI 2009/2999, reg 47(1), (2).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 10: in sub-para (20) first words omitted repealed by SI 2009/2999, reg 47(1), (3)(a).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 10: in sub-para (20) second words omitted repealed by SI 2009/2999, reg 47(1), (3)(b).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 12: in sub-paras (1)(c), (d) words "an EEA state" in square brackets substituted by SI 2009/2999, reg 47(1), (4).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 12: sub-para (3)(c) substituted by the Policing and Crime Act 2009, s 27(1), (5).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3 and SI 2010/1395, art 9(1).

Para 13: sub-para (1A) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(b).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 13: in sub-para (2)(a) words "sexual entertainment venues," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (6)(a).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 13: in sub-para (2)(a), (b) words omitted in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(d), (e); with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 13: in sub-para (2)(a), (b) words omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 13: in sub-para (2) words ", hostess bars" in square brackets, in both places they occur, inserted by the London Local Authorities Act 2007, s 33(2), (6).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 13: in sub-para (2)(b) words "sexual entertainment venues," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (6)(b).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 13: sub-para (3)(d) further substituted by the Policing and Crime Act 2009, s 27(1), (6)(c).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 18: in sub-para (2) words "Subject to sub-paragraph (4) below," in square brackets inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(c).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 18: sub-para (4) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(d).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 19: word "variation," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (7).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3 and SI 2010/1395, art 9(2).

Para 19: word omitted in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(g), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 19: word omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 22: in sub-para (1) sum in square brackets substituted by SI 1984/447; maximum fine in sub-para (2) converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Para 23: sum in square brackets substituted by SI 1984/447.

Para 24: repealed, in so far as it empowers a constable to arrest without a warrant, by virtue of the Police and Criminal Evidence Act 1984, s 26(1).

Para 24: repealed, for remaining purposes, by the Serious Organised Crime and Police Act 2005, ss 111, 174(2), Sch 7, Pt 1, para 22, Sch 17, Pt 2.

Date in force: 1 January 2006: see SI 2005/3495, art 2(1)(m), (t), (u)(xxii).

Para 25: maximum fine in sub-para (6) converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Para 25: sub-paras (7)-(11) inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(h), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 25: sub-paras (7)-(11) repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 25A: inserted by the Policing and Crime Act 2009, s 27(1), (8).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3 and SI 2010/1395, art 9(3).

Para 27: in sub-para (1) words "a magistrates' court" in square brackets substituted by SI 2005/886, art 2, Schedule, para 41(a).

Date in force: 1 April 2005: see SI 2005/886, art 1.

Para 27: in sub-para (4) definition "the relevant area" (omitted) repealed by SI 2005/886, art 2, Schedule, para 41(b).

Date in force: 1 April 2005: see SI 2005/886, art 1.

Para 27: in sub-para (6) words omitted amend the Supreme Court Act 1981, s 28(2).

Para 27: in sub-para (10) words omitted in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(i), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 27: in sub-para (10) words omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 27: sub-para (10A) inserted by the Policing and Crime Act 2009, s 27(1), (9).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3 and SI 2010/1395, art 9(4).

Para 27A: inserted by the Policing and Crime Act 2009, s 27(1), (10).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 28: in sub-para (1) words omitted in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(j), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 28: in sub-para (1) words omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 30: words omitted spent.

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Local Government (Miscellaneous Provisions) Act 1982 (Commencement No 1) Order 1982, SI 1982/1119 (made under para 30(1)).

ELIZABETH II

c. 26



Policing and Crime Act 2009

2009 CHAPTER 26

PART 2

SEXUAL OFFENCES AND SEX ESTABLISHMENTS

Sex establishments

27 Regulation of lap dancing and other sexual entertainment venues etc

- (1) Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) (control of sex establishments) is amended as follows.
- (2) In paragraph 2 (meaning of “sex establishment”) after “means a” insert “ sexual entertainment venue,”.
- (3) After paragraph 2 insert—

2A “Meaning of “sexual entertainment venue”

- (1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “relevant entertainment” means—
 - (a) any live performance; or
 - (b) any live display of nudity;which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (3) The following are not sexual entertainment venues for the purposes of this Schedule—

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Policing and Crime Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
 - (c) premises specified or described in an order made by the relevant national authority.
- (4) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).
- (5) But no order under sub-paragraph (4) may—
- (a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or
 - (b) provide for shorter intervals between such occasions.
- (6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.
- (7) Any power of the relevant national authority to make an order under this paragraph—
- (a) is exercisable by statutory instrument;
 - (b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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- (12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.
- (13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.
- (14) In this paragraph—
- “audience” includes an audience of one;
 - “display of nudity” means—
 - (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
 - (b) in the case of a man, exposure of his pubic area, genitals or anus;
 - “the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—
 - (a) the relevant entertainment; or
 - (b) the premises;
 - “premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;
 - “relevant national authority” means—
 - (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the Welsh Ministers;
- and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”
- (4) In paragraph 9(1) (duration of licence) after “paragraph 16” insert “ or 27A below”.
- (5) In paragraph 12(3) (refusal of licences) for paragraph (c) substitute—
- “(c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;”.
- (6) In paragraph 13 (power to prescribe standard conditions)—
- (a) in sub-paragraph (2)(a) after “for” insert “ sexual entertainment venues,”,
 - (b) in sub-paragraph (2)(b) after “of” insert “ sexual entertainment venues,” and
 - (c) in sub-paragraph (3) for paragraph (d) (as originally enacted) substitute—
 - “(d) any change from one kind of sex establishment mentioned in sub-paragraph (2)(a) above to another kind of sex establishment so mentioned.”
- (7) In paragraph 19 (fees in relation to applications) after “grant,” insert “ variation,”.
- (8) After paragraph 25 (powers of constables and local authority officers) insert—

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“25A

- (1) A person acting under the authority of a warrant under paragraph 25(4) may seize and remove anything found on the premises concerned that the person reasonably believes could be forfeited under sub-paragraph (4).
 - (2) The person who, immediately before the seizure, had custody or control of anything seized under sub-paragraph (1) may request any authorised officer of a local authority who seized it to provide a record of what was seized.
 - (3) The authorised officer must provide the record within a reasonable time of the request being made.
 - (4) The court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order anything—
 - (a) produced to the court; and
 - (b) shown to the satisfaction of the court to relate to the offence;
 to be forfeited and dealt with in such manner as the court may order.
 - (5) But the court may not order the forfeiture of anything under sub-paragraph (4) if it (whether alone or taken together with other things being forfeited which appear to the court to have been in the custody or control of the same person) is worth more than the amount of the maximum fine specified in paragraph 22(1).
 - (6) Sub-paragraph (7) applies if a person claiming to be the owner of, or otherwise interested in, anything that may be forfeited applies to be heard by the court.
 - (7) The court may not order the forfeiture unless the person has had an opportunity to show why the order should not be made.”
- (9) After paragraph 27(10) (appeals) insert—
- “(10A) Sub-paragraph (10) does not apply if the grounds for refusing an application for the renewal of a licence are those set out in paragraph 12(3)(c) or (d) of this Schedule.”
- (10) After paragraph 27 (appeals) insert—

27A “Premises which are deemed sexual entertainment venues

- (1) This paragraph applies if—
 - (a) premises are subject to a licence for a sexual entertainment venue; and
 - (b) their use would be use as such a venue but for the operation of paragraph 2A(3)(b).
 - (2) This Schedule applies as if—
 - (a) the premises were a sexual entertainment venue; and
 - (b) the use or business of the premises was use as, or the business of, such a venue.
 - (3) But the appropriate authority must cancel the licence if the holder of the licence asks them in writing to do so.
 - (4) In this paragraph “premises” has the same meaning as in paragraph 2A.”
- (11) Schedule 3 (provisions which are transitional on this section) has effect.

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Policing and Crime Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations.

Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 46A inserted by 2010 c. 17 s. 39(2)
- s. 113A inserted by S.I. 2010/976 Sch. 14 para. 106
- Sch. 5A inserted by 2010 c. 17 s. 39(3)

Commencement Orders yet to be applied to the Policing and Crime Act 2009:

Commencement Orders bringing provisions within this Act into force:

- S.I. 2009/3096 art. 2 to art. 4 commences (2009 c. 26)
- S.I. 2010/52 art. 2 commences (2009 c. 26)
- S.I. 2010/125 art. 2 to art. 4 commences (2009 c. 26)
- S.I. 2010/507 art. 2 to art. 5 commences (2009 c. 26)
- S.I. 2010/722 art. 3 commences (2009 c. 26)
- S.I. 2010/999 art. 2 to art. 4 commences (2009 c. 26)
- S.I. 2010/1375 art. 2, art. 3 commences (2009 c. 26)
- S.I. 2010/1986 art. 2 commences (2009 c. 26)
- S.I. 2010/1986 art. 3 amendment to earlier commencing SI 2010/999 art. 4

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Policy on Sex Establishment Licensing

1. Licensing Requirement

- 1.1. The Local Government (Miscellaneous Provisions) Act 1982 as amended ('the 1982 Act') provides that where Schedule 3 has been adopted by a local authority, no person shall in that area use any premises, vehicle, vessel or stall as a sex establishment except under and in accordance with the terms of a licence granted under that Schedule by the authority.
- 1.2. Harrow Council has resolved that Schedule 3 of the 1982 Act as amended applies to its area.
- 1.3. The 1982 Act imposes a duty on a local authority to refuse to grant a licence to a:
 - a.) person under the age of 18; or
 - b.) person who is for the time being disqualified following the revocation of a licence; or
 - c.) 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.) body corporate which is not incorporated in [an EEA state] ; or
 - e.) 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 of the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
- 1.4. Furthermore the 1982 Act allows a Local Authority to refuse to grant a licence where:
 - a.) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons; or
 - 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; or

- c.) that the number of sex establishments 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; or
- d.) that the grant or renewal of the licence would be inappropriate, having regard to:

- i) the character of the relevant locality; or
- ii) the use to which any premises in the vicinity are put; or
- iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

1.5. The 1982 Act provides that for the purpose of paragraph 1.4(c) above, nil may be an appropriate number.

1.6. Harrow Council is of the opinion that it is inappropriate for the Council to treat the whole borough as a relevant locality.

1.7. The Council considers it appropriate to consider each individual ward as a relevant locality and that the appropriate number of sex establishments in each ward is nil.

1.8. Therefore, whilst all applications for sex establishment licences for premises in the borough of Harrow will be properly considered on their own merit, there will be a presumption of refusal of applications for such licences.

2. Crime and Disorder

2.1 In accordance with Section 17 Crime and Disorder Act 1998, the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The possible crime and disorder implications are relevant factors in the consideration of all applications. In giving due regard to the possible implications members, when determining an application for a sex establishment licence, will consider and weigh up all the information available and representations made, including those from the public and other relevant authorities.

3. Human Rights

3.1 In determining applications, the principles of the Human Rights Act 1998 must be taken into consideration. The 1982 Act acknowledges that local authorities are entitled, amongst other things, to act where this is in the “general interest”. It should also be noted that there is a right of appeal to the Magistrates Court on certain grounds.

3.2 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 that is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:

a.) Article 6 – Right to Fair Hearing

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

b.) Article 8 – Right to respect for private and family life

Every person has the right to respect for his home and private life.

c.) Article 1 First Protocol – Right to protection of property

Persons are entitled to the peaceful enjoyment of their possessions. However, this is subject to the right of the State, through statute, to control the use of premises.

4. Consideration of Applications

4.1 In considering any application for the grant, renewal or transfer of a licence the Council is obliged to have regard to any observations submitted by the Metropolitan Police and any relevant objections received from members of the public, within the 28 day consultation period.

4.2 The Council recognises that Sex Establishment Licensing is controversial and stimulates very emotive arguments. However under the legislation, the Council does not have the right to have regard to the morality of sex establishments when considering applications for licences. Consequently, straightforward objections on the grounds that sex establishments should not be allowed on moral grounds will not be considered regarding sex establishment applications, and will be rejected.

- 4.3 All applications for new Sex Establishment Licences and renewals will be considered by the Licensing Committee or subcommittee thereof, at a public hearing.
- 4.4 An applicant for the grant or renewal of a licence whose application is refused has the right of appeal to the Magistrates' Court within 21 days. However, if refusal was on the grounds specified in 1982 Act Schedule 3 Section 12(3) c. or d. above then no right of appeal is available under this legislation.
- 4.5 Any person who has made a representation, objecting to or supporting an application, has no right of appeal under the legislation.

5. Policy Review

- 5.1 Harrow Council will review this policy as required by the governing legislation or in light of new guidance from a relevant body.

6. Further Information

- 6.1 For further information on any aspect of this policy, please contact:

Licensing Service
Harrow Council
PO Box 18
Civic Centre
Station Road
Harrow
HA1 2UT
Tel: 020 8901 2600
licensing@harrow.gov.uk

Comment

Consultee	Mr Julian Maw
Email Address	
Company / Organisation	Hatch End Association
Address	
Event Name	Draft Policy on Sex Establishment Licensing
Comment by	Hatch End Association (Mr Julian Maw)
Comment ID	1
Response Date	06/11/10 17:36
Status	Submitted
Submission Type	Web
Version	0.2

Q1. Do you think that Harrow Council should adopt the provisions of Section 27 Policing and Crime Act 2009?

YES

Please explain your reasons

We feel the council must control provision of "sexual entertainment venues"

Q2. Harrow Council's Draft Policy on Sex Establishment Licensing proposes that the number of licences that should be granted in each ward is nil. Do you agree with this number and if not, what do you consider to be the appropriate number per ward?

Due to the variation in character in the different wards ,we feel the phrasing in clause 1.6 should be changed to read "..... the appropriate number of sex establishment in each ward should be not more than one" This we feel does not prejudice the public wish in all cases and better meets the Human Rights Act 1998. With clause 1.7 retained it is clear that it is unlikely that a licence will be issued.

Q3. Harrow Council's Draft Policy on Sex Establishment Licensing proposes that there will be a presumption of refusal of applications for sex establishment licences. Do you agree with this proposal?

YES

Q4. What are your views that for applications for sex establishments licences that Harrow Council will adopt a presumption of refusal of such applications?

We agree with the presumption but it leaves with our append clause 1.6 the opportunity to have an establishment in a non residential area.

Q5. Any other comments regarding Harrow Council's Draft Policy on Sex Establishment Licensing

NONE

Comment

Consultee	Mr Jack Bye ([REDACTED])
Email Address	[REDACTED]
Address	[REDACTED]
Event Name	Draft Policy on Sex Establishment Licensing
Comment by	Mr Jack Bye
Comment ID	2
Response Date	14/11/10 22:12
Status	Submitted
Submission Type	Web
Version	0.1

Q1. Do you think that Harrow Council should adopt the provisions of Section 27 Policing and Crime Act 2009?

I can't find the definition of these provisions - your relevant links do not include this. As far as I can tell from your linked extract I support the adoption of these provisions as long as they are not excessively restrictive or too lax.

Please explain your reasons

I believe properly controlled sex establishments would reduce the attraction of uncontrolled prostitution.

Q2. Harrow Council's Draft Policy on Sex Establishment Licensing proposes that the number of licences that should be granted in each ward is nil. Do you agree with this number and if not, what do you consider to be the appropriate number per ward?

No. I support one, provided the establishment is not in a residential area. Anywhere that a public house would be allowed would be o.k.

Q3. Harrow Council's Draft Policy on Sex Establishment Licensing proposes that there will be a presumption of refusal of applications for sex establishment licences. Do you agree with this proposal?

No

Q4. What are your views that for applications for sex establishments licences that Harrow Council will adopt a presumption of refusal of such applications?

I disagree. A properly run sex establishment would be better than a properly run public house or "underground" prostitution.

Q5. Any other comments regarding Harrow Council's Draft Policy on Sex Establishment Licensing

No

Comment

Consultee	Mrs Jacqueline Raynaud ([REDACTED])
Email Address	[REDACTED]
Company / Organisation	Elm Park Residents Association
Address	[REDACTED]
Event Name	Draft Policy on Sex Establishment Licensing
Comment by	Elm Park Residents Association (Mrs Jacqueline Raynaud)
Comment ID	3
Response Date	13/12/10 02:18
Status	Submitted
Submission Type	Web
Version	0.2

Q1. Do you think that Harrow Council should adopt the provisions of Section 27 Policing and Crime Act 2009?

Yes we do.

Please explain your reasons

This area is largely a residential one and we feel that having a sex establishment in the vicinity is totally inappropriate.

Q2. Harrow Council's Draft Policy on Sex Establishment Licensing proposes that the number of licences that should be granted in each ward is nil. Do you agree with this number and if not, what do you consider to be the appropriate number per ward?

We totally agree.

Q3. Harrow Council's Draft Policy on Sex Establishment Licensing proposes that there will be a presumption of refusal of applications for sex establishment licences. Do you agree with this proposal?

Again we totally agree.

Q4. What are your views that for applications for sex establishments licences that Harrow Council will adopt a presumption of refusal of such applications?

A presumption of refusal is in keeping with our views.

Q5. Any other comments regarding Harrow Council's Draft Policy on Sex Establishment Licensing

Having sex establishments in the area would inevitably attract undesirable visitors, and have a deleterious and degrading effect on Harrow.

Comment

Consultee	Dr Ruth Boff [REDACTED]
Address	dd ddd ddd
Event Name	Draft Policy on Sex Establishment Licensing
Comment by	Dr Ruth Boff
Comment ID	4
Response Date	08/12/10 13:28
Status	Submitted
Submission Type	Web
Version	0.2

Q1. Do you think that Harrow Council should adopt the provisions of Section 27 Policing and Crime Act 2009?

Yes

Q2. Harrow Council's Draft Policy on Sex Establishment Licensing proposes that the number of licences that should be granted in each ward is nil. Do you agree with this number and if not, what do you consider to be the appropriate number per ward?

The number and location of sexual entertainment venues should be subject of strict local authority control. It should not be left to market forces. The very nature of such establishments is such that regulation is required. Those who perform in such places need protection from exploitation and also to behave in a proper manner. Those who run them should be of demonstrable good character before being permitted to do so. Areas need protection against a proliferation of such establishments.

Q3. Harrow Council's Draft Policy on Sex Establishment Licensing proposes that there will be a presumption of refusal of applications for sex establishment licences. Do you agree with this proposal?

We agree with the proposed number.

Q4. What are your views that for applications for sex establishments licences that Harrow Council will adopt a presumption of refusal of such applications?

Yes.

Q5. Any other comments regarding Harrow Council's Draft Policy on Sex Establishment Licensing

We agree with the Council's proposed to treat individual wards as "a relevant locality".

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The Pinner Association

www.pinnerassociation.co.uk Email: info@pinnerassociation.co.uk

FOUNDED IN 1932
REGISTERED CHARITY 1971 No. 262349
ONE OF THE LARGEST AMENITY
SOCIETIES IN THE COUNTRY

To: Licensing Services, Harrow Council,
PO Box 18, Civic Centre,
Station Road,
Harrow,
HA1 2UT

The Pinner Association

Response to "Sex Establishment Consultation Questionnaire" December 2010.

Q1: Yes.

Q2: The number and location of sexual entertainment venues should be subject of strict local authority control. It should not be left to market forces.

The very nature of such establishments is such that regulation is required. Those who perform in such places need protection from exploitation and also to behave in a proper manner. Those who run them should be of demonstrable good character before being permitted to do so. Areas need protection against a proliferation of such establishments.

Q3: We agree with the proposed number.

Q4: Yes.

Q5: We agree with the Council's proposed to treat individual wards as "a relevant locality".

Mr G. T. Wheal,
Chairman of Licensing Sub-Committee,
The Pinner Association,



7th December 2010.



PUBLISHERS OF
The Villager



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From: John O'Neill
To:
Date: 01/12/2010 21:29
Subject: sex places

Dear Sir/Madam,

I am sending you this email with the purpose being to ask you to please sign up to the "Policing and Crime Act 2009." A study of 88 civilisations in the 1940's by Professor J. D. Unwin from Cambridge University showed that, whenever there was widespread promiscuity, premarital sex, infidelity and same sex relationships the civilisation was dead within three generations- with no exceptions. The LAST thing we need in Harrow is corrupting, degrading, immoral sex establishments which would lower the moral tone of our area dramatically.

In the REAL world the sexual revolution and the permissive society has been a total disaster for our nation! Moral and spiritual values have been in constant decline in Britain since the 1950's. The results are: a ten-fold increase in crimes and enormous increases in social problems. WE REAP AS WE SOW!

In reality there is a sex shop in Harrow, the Ann Summer's shop in the St. Ann's centre. This shop may be legal, but it does sell porn items and it's lewd and offensive window displays are an affront to common decency. Such a shop should not be in a public place, and certainly not in a town like Harrow which is a multiracial borough where religious and family values are cherished and adhered to. I sincerely hope that you will act regarding the Ann Summer's shop.

Sincerely,

John O'Neill

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**REPORT FOR: LICENSING & GENERAL
PURPOSES COMMITTEE**

Date:	1 March 2011
Subject:	INFORMATION REPORT – Early Retirement Update
Responsible Officer:	Myfanwy Barrett, Corporate Director Finance
Exempt:	No, except for Appendix 1 which is exempt by virtue of paragraphs 3 & 4, Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).
Enclosures:	Appendix 1: Details of early retirements from 1 December 2009

Section 1 – Summary and Recommendations

FOR INFORMATION

This report provides the Committee with an update on Harrow Council's actual experience of early retirements and the financial impacts to date.

Section 2 – Report

Background

Under current Local Government Pension Scheme (LGPS) legislation there are four routes in which a scheme member from age 55 could receive early payment of pension benefits:

1. **Flexible Retirement** permits the immediate payment of pension benefits, at the employers' discretion, where a scheme member reduces his/her hours or moves to a lower grade even though the scheme member has not retired from employment and continues to build up benefits in the Scheme.

There is a requirement for employers to prepare, publish and keep under review a policy statement on flexible retirement.

Under Harrow's current policy the following conditions apply: -

- a) All requests for flexible retirement will be considered;
- b) Approval will only be granted if it is in Harrow Council's best interest to do so and where the service area can demonstrate operational efficiencies;
- c) The flexible retirement reduction in hours/grade delivers a 10% saving of on-cost salary (pro rata if applicable) in the first year. This is to be identified as part of the business case;
- d) Where an actuarial reduction applies and this does not fully cover the cost of placing the pension into payment, there will have to be a sufficient reduction in the employee's grade or hours to ensure that the pension fund is reimbursed for any shortfalls;
- e) The waiving of any early retirement actuarial reduction (either in part or in full) will not be considered;
- f) Flexible retirements must be approved by a Director, and agreed by:
 - I. the Officer Sub-Group and Members of the Early Retirement Sub-Committee where there is a financial strain on the pension fund; or
 - II. the Divisional Director Shared Services where there is no financial strain on the pension fund.

All flexible retirements and the financial impacts are reported to The Licensing & General Purposes Committee on an annual basis.

2. **Retirement on grounds of redundancy.** Once the employer has taken an employment decision to cease an individual's employment on the grounds of redundancy the LGPS regulations state that the employee is entitled to immediate payment of retirement pension where s/he meets the LGPS criteria.

The employer decision to cease an individual's employment on the grounds of redundancy must be approved by the Officer Sub-Group and the release of pension benefits must be signed off by the Corporate Director of Finance.

3. **Retirement on efficiency grounds.** Based on the same principles as '2' above.
4. **Choice of early payment of pension (Regulation 30)** allows an active or deferred scheme member, at the employers' discretion, to receive early payment of pension benefits.

There is a requirement for employers to prepare, publish and keep under review a policy statement on early payment of pension.

Under Harrow's current policy the following conditions apply: -

- g) All requests for early retirement under Regulation 30 will be considered;
- h) Approval will only be granted if it is in Harrow Council's best interest to do so and where the service area can demonstrate operational efficiencies;
- i) Where an actuarial reduction applies and this does not fully cover the cost of placing the pension into payment the financial strain on the pension fund will be picked up as part of the triennial valuation.
- j) The waiving of any early retirement actuarial reduction on compassionate grounds, (either in part or in full) will not be considered;
- k) The early release of pension benefits must be approved by;
 - I. a Director and agreed by the Officer Sub-Group and Members of the Early Retirement Sub-Committee where there is a financial strain on the pension fund; or
 - II. the Divisional Director Shared Services where there is no financial strain on the pension fund.
- l) In the case of a deferred member the early release of pension benefits will only be approved where there is no financial strain on the pension fund.

Following a meeting of the Licensing and General Purposes Committee on 8 June 2009, it was resolved that all retirements on grounds of redundancy, efficiency and early release of pension together with the financial impacts would be reported to The Licensing & General Purposes Committee on an annual basis (in addition to flexible retirements) in the format shown in Appendix 1.

Section 3 – Further Information

A further report on early retirements will be presented to the Licensing & General Purposes Committee next year.

Section 4 – Financial Implications

Contained within body of report.

Section 5 - Corporate Priorities

N/A

Name: Myfanwy Barrett



Chief Financial Officer

Date: 11 February 2011

Section 6 - Contact Details and Background Papers

Contact: Linda D'Souza, Service Manager – Shared Services.

Tel: 020 8424 1426

Email: Linda.d'souza@harrow.gov.uk

Background Papers:

L&GPC Report dated 8 June 2009 entitled 'Early Retirement – Delegation of authority for approval'.

<http://www.harrow.gov.uk/www2/ieListDocuments.aspx?CId=585&MId=60015&J=5>

Licensing and General Purposes Committee. 27 September 2007 – Report on Flexible Retirement.

<http://www.harrow.gov.uk/www2/ieListDocuments.aspx?CId=585&MId=3741&J=3>

Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (As Amended).

<http://timeline.lge.gov.uk/LGPS2008Regs/SI20091025/20071166.htm>

**REPORT FOR: LICENSING & GENERAL
PURPOSES COMMITTEE**

Date: 1 March 2011

Subject: INFORMATION REPORT – Voluntary
Severance Scheme

Responsible Officer: Tom Whiting, Assistant Chief
Executive

Exempt: No, except for Appendix A which is
exempt by virtue of paragraphs 3 & 4,
Part 1 of Schedule 12A of the Local
Government Act 1972 (as amended).

Enclosures: Appendix A – VSS Status Report

Section 1 – Summary and Recommendations

FOR INFORMATION

This report provides the Committee with an update on the Voluntary Severance Scheme (VSS) and cost to pension fund.

Section 2 – Report

Background

The Council has made significant progress over the past two years in reducing spend and the Better Deal for Residents programme will make a significant contribution to delivering future savings. However, cuts from central Government meant that the Council had to find an additional £5.8m savings for this year (2010/2011), on top of the estimated £50m over the next three years starting April 2011.

In 2009 the Council adopted a Voluntary Severance Scheme to assist it in reducing staffing revenue cost. To find further savings this year and reduce the potential costs of planned future reductions in the workforce the Council re-introduced a Voluntary Severance scheme to assist it in reducing staffing revenue cost and create redeployment opportunities for staff at risk of redundancy.

In order to maximise the effectiveness of the Voluntary Severance scheme it was critical that decisions relating to the early release of pension benefits were taken at the earliest opportunity enabling as many volunteers as possible to leave the Council from September 2010. It was anticipated that regular assessment of business cases would be required over the period September through to 31 December 2010.

The current arrangements of convening ad hoc meetings of the Early Retirement Sub-Committee would negatively impact on timelines, and reduce the savings the Council would be able to realise through the scheme. Consequently, on 10 September 2010 Councillor Dhamarajah and Councillor John Cowan were consulted on and agreed an urgent action decision which provided for the following delegation and reporting instructions, for VSS cases instigated between 18 September 2010 to 31 December 2010:-

1. Delegate authority to the Corporate Director of Finance, in consultation with the Officer Review Board, solely for the duration of the Voluntary Severance scheme, to determine requests from employees leaving in accordance with that scheme to receive their pension benefits under Regulation 30 of the Local Governance Pension Scheme Regulations 2007.
2. Instruct the Interim Divisional Director Shared Services to report all cases and costs incurred to the Pension Fund to the Chairman and Vice-Chairman of Licensing and General Purposes Committee and subsequently to the Committee.

Councillors Dhamarajah and John Cowan received weekly reports up until 4 January 2011.

Appendix A provides current position.

Elected Members will wish to note that VSS cases are still being processed and that the figures provided in Appendix A do not reflect the final position.

Section 3 – Further Information

A further report on early retirements will be presented to the Licensing & General Purposes Committee in the next financial year.

Section 4 – Financial Implications

Contained within body of report.

Section 5 - Corporate Priorities

N/A

Name: Steve Tingle



on behalf of the*
Chief Financial Officer

Date: 17 February 2011

Section 6 - Contact Details and Background Papers

Contact: Jon Turner, Divisional Director Human Resources & Development.
Tel: 020 8424 1225
Email: jon.turner@harrow.gov.uk

Background Papers:

Urgent Action Decision - September 2010

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