

**SEXUAL ENTERTAINMENT VENUE LICENSING POLICY**

**Approved by City Council 4<sup>th</sup> April 2012.**

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## 1. Introduction

This document sets out Newcastle City Council's policy (the "Policy") regarding the regulation of sexual entertainment venues and the procedure relating to applications for sexual entertainment venue licences, and should be considered in conjunction with the Executive Report dated 8<sup>th</sup> December 2010 and titled Regulation of Sexual Entertainment Venues.

- 1.1 This document relates to applications for the licensing of the new category of sex establishment known as "sexual entertainment venue" as set out in the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.
- 1.2 Sex Establishment Licences are issued under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. The City Council has resolved to adopt this Schedule and there are currently two such licences in the city, both issued to sex shops.
- 1.3 Premises which provide entertainment of a sexual nature or adult entertainment are presently licensed under the provisions of the Licensing Act 2003 to provide regulated entertainment involving music and dancing. Where the activity involves nudity the operators normally have an additional set of conditions attached to their licence. There are five premises currently licensed to provide lap dancing entertainment in Newcastle upon Tyne.
- 1.4 The Policing and Crime Act 2009 amends the Local Government (Miscellaneous Provisions) Act 1982 with effect from April 2010. In order for the provisions of the Policing and Crime Act 2009, as they relate to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, to apply in the City of Newcastle upon Tyne the Council must first resolve to adopt these provisions.
- 1.5 Once adopted, the amendments will require that as well as holding a premises licence for provision of alcohol and regulated entertainment, any premises which operates as a 'sexual entertainment venue' will also require a licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by The Policing and Crime Act 2009.
- 1.6 The amendments will in summary:

- Allow local people to oppose an application for a sexual entertainment venue licence if they have legitimate concerns that it would be inappropriate given the character of an area because for example, if the area was primarily a residential area.
- Require licences to be renewed at least yearly, at which point local people will have the opportunity to raise objections with their local authority.
- Allow a local authority to reject a licence application if they believe that to grant a licence for a lap dancing club would be inappropriate given the character of a particular area.
- Allow a local authority to set a limit on the number of sex encounter venues that they think is appropriate for a particular area.
- Allow a local authority to impose a wider range of conditions on the licences of lap dancing clubs than they are currently able to under the 2003 Act.

1.7 Consultation on this policy took place from 2<sup>nd</sup> August 2010 to 25<sup>th</sup> October 2010.

1.8 The Council is mindful of possible concerns of the local community and that there can be conflict between applicants and objectors. The Policy will guide the Council when considering applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and communities.

1.9 The Council recognises that Parliament has made it lawful to operate a sexual entertainment venue, and that such businesses are a legitimate part of the retail and leisure industries. It is the role of the licensing authority to administer the licensing regime in accordance with the law.

1.10 This policy sets out:

- the process for making an application,
- the process the -Council will follow in considering and determining an application for a sexual entertainment venue licence.

## **2 Definitions**

### **2.1 The Act**

This refers to Schedule 3 of the Local Government Miscellaneous Provisions Act 1982 (as amended by the Policing and Crime Act 2009).

### **2.2 The Policy**

This refers to the draft sexual entertainment venue licensing policy.

### **2.3 Character of the relevant locality**

The character or characteristics of the locality where the premises are situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Council to consider based on local knowledge, factors and circumstances.

### **2.4 The Council**

This means the Council of the City of Newcastle upon Tyne.

### **2.5 Display of nudity**

This 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

### **2.6 The Licensed Premises**

This is the premises, vessel, vehicle or stall which is subject to a sex entertainment venue licence. The premises will be in possession of all appropriate consents and permissions required to operate.

### **2.7 The Licensee**

This is any person who is responsible for the organisation or management of the relevant entertainment or the premises.

### **2.8 Permitted hours**

These are the hours of activity and operation that will be authorised under a sexual entertainment venue licence for any particular premises.

### **2.9 Sexual Entertainment Venue**

A sexual entertainment venue is any premises where any live performance or any live display of nudity is of such a nature that,

regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience. The live performance need not involve nudity if said performance is sexually stimulating for the audience and an audience may consist of one person.

### **3 City Profile**

- 3.1 Newcastle upon Tyne is a largely urban conurbation within the Tyne and Wear (Newcastle, Gateshead, North Tyneside, South Tyneside and Sunderland) County covering an area of 112km<sup>2</sup> and with a population of approximately 260,000.
- 3.2 The City has a substantial road and rail network incorporating a number of major roads, for example the A1, and the main East Coast railway line. It also has an international airport and nearby is an international ferry terminal.
- 3.3 Newcastle also serves as the regional capital for a population of over two million people. It is a centre for further and higher education, with two universities and a higher education college which together bring in over 50,000 students to the city.
- 3.4 An indoor Arena with an audience capacity of 11,250 regularly plays host to entertainment events, internationally renowned entertainers, ice hockey and basketball, and St. James Park is home to Newcastle United Football Club who attracts in excess of 50,000 supporters. "National Hunt" and "Flat" horse race meetings at Gosforth Park.
- 3.5 The city is also home to a number of museums, galleries, the Centre for Life and other visitor attractions plus annual events such as the MELA and Evolution festivals.
- 3.6 There are over 143,000 jobs in the City and 80,000 enter the City every day to work, and it is estimated that in excess of 100,000 people use the pubs, clubs and restaurants at weekends.
- 3.7 The numbers of premises with authorisations permitting the sale/supply of alcohol and the provision of regulated entertainment are shown in Table 1.
- 3.8 The City has 4 Cumulative Impact Areas which are City Centre, Gosforth, Jesmond and Ouseburn.

- 3.9 In the City Centre Cumulative Impact Area there are 178 bars, clubs, nightclubs, lap dancing clubs, theatres and other types of premises which could conceivably apply for a licence under the amended legislation.
- 3.10 Of these 178 premises in the City Centre Cumulative Impact Area there are approximately 80 premises which have the benefit of Adult Entertainment on their premises licence.
- 3.11 A breakdown of the number of premises by type which are in the City Centre Cumulative Impact Area and which have Adult Entertainment on their licence is included below. (Table 2)
- 3.12 There are currently 5 lap dancing clubs in the City (one of which is not open for business) operating on a premises licence with provision for adult entertainment.
- 3.13 There are currently approximately 15 premises which operate under a similar licence and who provide adult entertainment on football match days and other one-off occasions when the City is busy. These venues, whilst operating as bars for the majority of the week, will be subject to the requirements of the amended legislation if they provide relevant entertainment more than 11 times per year.

Table 1

Licensed premises by type citywide	March 2010
Casinos	3
Church Halls	11
Cinemas	5
Club premises certificates	86
Community centres	25
Education establishments	12
Hotels	39
Public land	25
Lap dancing clubs	5
Music-led venues	3
Off-Licences	275
Pubs / Late-night venues	256
Restaurants	175
Sports venues	12
Student unions	3
Takeaways	158
Theatres	7
Vessels	3
Other	57
<b>Total</b>	<b>1160</b>

Table 2

City Centre premises with adult entertainment by type	Number of each type
Casino	2
Lap-dancing	5
Nightclubs	8
Pubs	52
Pub restaurants	6
Theatres	3
Other	4
<b>Total</b>	<b>80</b>

#### **4 Links to other policies and strategies**

4.1 In developing this Policy, the Council has consulted widely and given due consideration to the views of all those who responded to that consultation process. There are many organisations and people who

have a stake in the leisure industry, including providers, customers, residents, law enforcers and the emergency services, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives. The Council also consulted those involved and responsible for its local strategies on crime prevention, planning, transport, culture, tourism and economic development.

4.2 In administering its responsibilities in respect of the licensing of sexual entertainment venues, the Council believes it is important that it does not operate in isolation. Due regard will be given to the policies and decisions of local authorities in the region especially those with which the city shares boundaries. The close links between Newcastle and Gateshead are recognised as being particularly important, for example in relation to premises on the banks of the River Tyne.

4.3 **Newcastle Plan**

The Newcastle Plan aims to make Newcastle:

- safer
- cleaner and 'greener'
- healthier
- a nicer place to live
- a place where people learn
- better off
- good for children and young people
- more creative

4.4 **Newcastle Statement of Licensing Policy**

It is envisaged that the premises which will be applying for a sexual entertainment licence will also require or, in the vast majority of cases, already have, a premises licence for the sale or supply of alcohol. The Newcastle Statement of Licensing Policy describes how the Council and Licensing Committee deal with all such applications for premises licences.

4.5 **Newcastle Alcohol Harm Reduction Strategy**

The Council work in partnership with the Police and Safe Newcastle to produce the Newcastle Alcohol Harm Reduction Strategy and deliver improvements in the objectives identified. The Strategy has a range of objectives relating to this policy.

- Objective 3A: To provide a safe environment in Newcastle where people can live, work and enjoy themselves free from the fear of experiencing alcohol-related crime or anti-social behaviour.
- Objective 3B: To work closely with the licensed trade and retailers to provide safe high quality premises and street environment, encourage participation in best practice schemes and eliminate irresponsible promotions.
- Objective 3C: To promote the responsible sale of alcohol and prevent illegal sales to those underage or drunk.
- Objective 3D: To encourage a variety of operating styles within licensed premises appealing to a broad range of customers.

#### 4.6 **Crime and Disorder Act 1988**

In addition to the Licensing Objectives, this Authority is also bound by Section 17 of the Crime and Disorder Act 1988 which requires the Authority to do all that it reasonably can to prevent crime and disorder within the locality. Whilst crime statistics do not indicate any problem of crime associated with sexual entertainment venues in comparison with any other type of licensed premises, the Council will work in partnership with the Police and other relevant agencies and local residents towards the promotion of the Licensing Objectives.

4.7 The Council acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises. However in exercising its licensing function the Council would wish to emphasise that it will conduct its licensing function whilst having full regard to its responsibilities under the Crime and Disorder Act 1998.

4.8 Other mechanisms also exist to be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the sexual entertainment licence concerned. These include:

- planning controls;
- positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other departments of the City Council;
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- designation of parts of the city as designated public places where alcohol may not be consumed publicly;

- police enforcement of the general law concerning disorder and anti-social behaviour, including the use of penalty notices for disorder.
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk • the confiscation of alcohol from children and from adults in designated public places.

#### 4.9 **The Human Rights Act 1998**

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 in respect of its licensing responsibilities. These are:

- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8 that everyone has the right to respect for their home and private life.
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence.

#### 4.10 **Disability Discrimination Act 1995**

The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. Obligations under the Disability Discrimination Act are not within the scope of the licensing of sexual entertainment venues.

#### 4.11 **The Equality Act 2010**

The Equality Act 2010 seeks to simplify the legal framework which has been built up over the years concerning discrimination of all kinds. While the Act both places a duty and also gives powers to certain public bodies and to employers it is not directly within the scope of the licensing regime for sexual entertainment venues.

#### 4.12 **Race Relations Act 1976**

The Council recognises its responsibilities under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act, 2000. The impact of this policy on race relations will be monitored through the Council's race equality scheme.

4.13 As far as possible, the Council will avoid duplication with other regulatory regimes, and will not use its powers under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009) to achieve outcomes that can be achieved by other legislation and other enforcement agencies.

4.14 **Planning**

Planning permission is usually required for the establishment of new premises and where there is a material change of use of premises. Permissions that may be relevant to licensed premises include:

- Use for the sale of food and drink for consumption on the premises e.g. restaurants cafes (Use class A3);
- Use as a public house, wine-bar or other drinking establishment (Use class A4); and
- Use for assembly and leisure e.g. cinema, concert hall, indoor/outdoor sports (Use class D2).

Please note that nightclubs do not fall within a specific use class.

4.15 The Council's Planning Policies are set out in its Unitary Development Plan supplemented by guidance on the revisions to the old A3 classification, with the creation of a new Class A3 (restaurants and cafes) and Class A4 (pubs and bars). Government guidance in the form of Planning Policy Guidance Notes (PPG) and Regional Planning Policy Guidance Notes (RPG) is also relevant.

4.16 To ensure proper integration with the Council's planning policies, the Licensing Sub-Committee will provide reports from time to time to the Development Control Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable that Committee to have regard to such matters when making its decisions.

4.17 In particular, the Council's licensing functions will be discharged separately from its functions as the "Local Planning Authority". The Council recognises that planning and licensing regimes are separate and that licensing applications should not be a re-run of a planning application. The Council as the "Licensing Authority" will not necessarily be bound by decisions made by the Council as the "Local Planning Authority" and vice versa. However applicants for Premises Licences and Club Premises Certificates, which will usually be required in addition to a sexual entertainment licence, are reminded that planning permission will normally be required for such uses and such planning consents may carry conditions.

4.18 The Council recognise that the majority of premises that apply for a sexual entertainment licence will already be operating as a bar, pub or club and will have the necessary premises licence, fire risk assessment and planning permission in place.

4.19 Although the planning and licensing function will be discharged separately, experience has shown that it is generally more appropriate that planning consent is obtained first, or alternatively that a certificate of lawful use or development has been obtained (in terms of the activities and trading hours). In general, planning consents authorise a broad type of use of premises, whereas licences are granted for a particular type of activity. A planning consent for an entertainment use, for example, may cover a number of activities that can have a wide range of different impacts within the locality.

4.20 **Building Regulations**

All premises for which a licence is being sought will be expected to comply with the requirements of the Building Regulations in force at the time of their construction, or at the time of any alteration. Therefore, where construction work is proposed, the applicant should be able to produce either an appropriate "Approval Certificate" issued by the Local Authority or "Plans Certificate" from an Approved Inspector; or where construction works have been completed, the applicant can produce a "Completion Certificate" or "Final Certificate".

4.21 The Council recognise that the majority of premises that apply for a sexual entertainment licence will already be operating as a bar, pub or club and will have the necessary premises licence and building regulation permissions in place.

4.22 **Other strategies and policies**

The Council will also seek to discharge its responsibilities by linking to Government and the council strategies and policies so far as they impact on the objectives of the Act, such as:

- Enforcement Concordat and the Statutory Code of Practice for Regulators ("Regulators' Compliance Code"), Crown Prosecution Service's Code for Crown Prosecutors and the Home Office Circular 16/2008 on the cautioning of adult offenders;
- Local drugs and alcohol strategies;
- Local Government Regulation Practical Guide to Test Purchasing;

- Culture and tourism strategies;
- Local Transport Plan; and
- Unitary development plan.

## **5 Review and Consultation**

- 5.1 In developing the Policy for sexual entertainment venues the Council has had regard to Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982, as amended by the Policing and Crime Act 2009.
- 5.2 The Licensing Committee was informed of the change in legislation, by the Director of Regulatory Services and Public Protection, on 21<sup>st</sup> April 2010, and was updated with regard to the proposals for adopting and implementing the new licensing regime on 23<sup>rd</sup> August 2010. The Licensing Committee agreed that a policy for the licensing of sexual entertainment venues should be developed. The Policy is subject to change dependant upon any relevant government guidance and secondary legislation that may be issued.
- 5.3 The Council recognises the important role that regulatory authorities, the licensed trade, residents, businesses and other stakeholders have to play in influencing this Policy. Whilst no consultation process is required under the legislation the Licensing Committee took the view that such a process should be carried out in Newcastle. A wide range of views on the Policy were sought as part of a consultation process which took place between the beginning of August 2010 and the end of October 2010 before finalising and publishing the Policy.
- 5.4 Consultation on this Policy took place with:
- the Chief Officer of Northumbria Police
  - one or more persons who appear to the authority to represent the interests of persons carrying on sex establishment businesses in the authority's area (there are five existing destination sexual entertainment venues in the City) and
  - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by or otherwise have an interest in the Policy. This includes but is not limited to Ward Committees, regulatory authorities such as the fire authority, community safety and child protection, interested parties such as resident associations and trade associations.
- 5.5 The Council will give due weight to the views of those consulted and

amend the Policy where appropriate following responses received. In determining what weight to give particular representations, the factors to be taken into account will include:

- who is making the representation (what is their expertise or interest)
- what their motivation may be for their views
- how many other people have expressed the same or similar views
- how far representations relate to matters the Council should include in its Policy.

5.6 The Policy will be published via the Licensing website [www.newcastle.gov.uk/licensing](http://www.newcastle.gov.uk/licensing).

Hard copies will be available upon request from the Council.

5.7 Should you have any comments regarding this Policy, please send them via email or letter to the  
Licensing Authority  
Regulatory Services and Public Protection  
Room 704  
Civic Centre  
Baras Bridge  
Newcastle upon Tyne  
NE1 8PB

E-mail to : [licensing@newcastle.gov.uk](mailto:licensing@newcastle.gov.uk)

5.8 Once adopted, the Council may review the Policy from time to time as it deems appropriate.

## **6 General Policy**

### **6.1 Principles to be applied**

Specific mandatory grounds for refusal of a licence are set out in the Act. A licence cannot be granted:

- a) to anyone under 18 years of age
- b) to someone who has held a licence that was revoked in the last 12 months (from the date of revocation)
- c) to someone who has been refused a new or renewal of an existing licence within the last 12 months (from the date of making the application)
- d) to an individual who is not resident in the United Kingdom or has not been resident for six months prior to the making of an application
- e) to a company not incorporated in the United Kingdom.

- 6.2 The Council has determined that for the licensing of sexual entertainment venues the City will operate with two relevant localities which will be:
- a) Inside the City Centre Cumulative Impact Area (the City Centre Locality) as defined in the Licensing Policy (see also map at appendix A
  - b) Outside the City Centre Locality.
- 6.3 Inside the City Centre Locality the Council would generally seek to limit the number of sexual entertainment venues to those which currently operate under the Licensing Act 2003 in such a way as to require a sexual entertainment venue licence. This number is currently 5 premises which the Council would class as Destination Lap Dancing Bars and approximately 9 bars or pubs which provide relevant regulated entertainment on predominantly match-days, and on other occasions more than 11 times per year. However, all new applications will be subject to full consideration by the appropriate committee.
- 6.4 Outside the City Centre Locality the most appropriate number of sexual entertainment venue licences is considered to be zero.
- 6.5 The number in the area outside the City Centre Locality does not preclude an application for a licence being made. However, in such a situation the presumption will be to refuse such an application and the applicant will have to make their case as to why the licence should be granted in any particular location contrary to this policy.
- 6.6 Every application will be considered on its merits on a case by case basis in determining applications to grant, refuse, renew, transfer or vary a licence.
- 6.7 All applications for new licences or to review an existing licence will be taken before Licensing committee for consideration and decision.
- 6.8 All applications to vary, transfer or renew a licence will be taken before Licensing committee when at least one objection or representation has been received.
- 6.9 On receipt and validation of an application for a new licence the applicant may be required to attend a meeting with the Council in order to discuss fully the details of their application.

6.10 The interior areas of any sex establishment are not to be visible to anyone who passes by on thoroughfares or pedestrian routes. In all cases external decoration, names and signage will be as approved by Licensing Committee at the time of the initial application for a licence.

6.11 The Council shall have regard to all relevant considerations, including any representations received and comments made.

6.12 New applications

The Council may also refuse a licence if:

- a) the applicant is unsuitable to hold a licence because they have been convicted of an offence or for any other reason
- b) were the licence to be granted, renewed or transferred, the business to which it relates would be managed or carried on for the benefit of a person other than the applicant, who would have been refused a licence if they had applied themselves
- c) the number of sex establishments, or 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) the grant or renewal of licence would be inappropriate having regard to:
  - i. the character of the relevant locality
  - 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.

6.13 The Council may also have regard to the following factors:

- a. the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons.
- b. the proximity of educational establishments to the premises.
- c. the proximity of places of worship to the premises.
- d. access routes to and from schools, play areas, nurseries, children's centres or similar premises.
- e. the proximity to shopping centres.

- f. the proximity to community facilities / halls and public buildings such as swimming pools, leisure centres, public parks, youth centres / clubs (this list is not exhaustive).
- g. the potential impact of the licensed activity on crime and disorder and public nuisance.
- h. the potential cumulative impact of licensed premises in the area taking into account the days and hours of operation of the activity and the character of the locality where the premises are situated.
- i. The nature and concerns of any objections received from residents/establishments objecting to the licence application.
- j. Any evidence of complaints about noise and/or disturbance caused by the premises.
- k. current planning permission/ planning requirements on the premises.
- l. any current planning policy considerations.
- m. proximity of other sex establishments.
- n. whether there is planned regeneration of the area.
- o. any current licensing permissions related to the premises in relation to activities, uses and hours.
- p. comments/observations of the Police and Council personnel, including compliance with licensing conditions, relevant history (including noise complaints) together with details of previous convictions/ prosecutions pending.
- q. the suitability and fitness of an applicant to hold a licence. In determining suitability for a licence, the Council shall normally take into account:
  - i) Previous knowledge and experience of the applicant
  - ii) any evidence of the operation of any existing / previous licence held by the applicant, including any licence held in any other borough
  - iii) Any report about the applicant and management of the premises received from objectors or the Police

and any criminal convictions or cautions of the applicant

iv) any other relevant reason.

6.14 The above factors are not an exhaustive list of considerations but are merely indicative of the types of factors which may be considered in dealing with an application.

6.15 All applications for new licences for sex establishments, as described in the Act shall be referred to the Licensing Committee for decision.

6.16 Renewal Applications

Where a premises was operating as a sexual entertainment venue before the introduction of this Policy, this Policy will become a consideration when the licence application is determined.

6.17 When considering a renewal application the Council may take into account the criteria set out at paragraph 6.13 a) – q), and:

a) the type of activity to which the application relates

b) the duration of the proposed licence

c) the days and hours of operation of the activity

d) the layout and condition of the premises

e) the use to which other premises in the vicinity are put

f) the character of the locality in which the proposed premises are situated

g) the levels of crime and disorder in the area

h) past demonstrable adverse impact from the activity

i) whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts

6.18 It should be noted that the Council, in applying its decision-making discretion, may consider it appropriate to refuse the renewal of the licence even where there has been no change in the character of the relevant locality or in the use to which any premises in the locality are put.

6.19 If a renewal application is not opposed, it shall be approved

under authority delegated to relevant officer(s). All contested applications for renewal, as described in the Act shall be referred to the Licensing Committee for decision.

#### 6.20 Variation Applications

Where an application is made to vary any of the terms or conditions of an existing licence, whether on renewal or not, the Council will take into account the criteria as set out in paragraphs 6.13 a) – q) and 6.17 a) – i) above.

### **7 The Application Process**

#### 7.1 Making an application

7.2 Any application should be made in writing to the Council. The Council contact number is 0191 2777130.

7.3 The Provision of Services Regulations 2009 does not apply to a licensing scheme under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. As such there is no tacit authorisation of a licence if the Council does not determine an application within a time they specify.

7.4 The Council will determine applications for sexual entertainment venue licences using the existing provisions and timescales used for determining applications for premises licences under the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.

7.5 Applicants for a licence must complete and return the application form (which can be provided on request from the Council) together with:

- i. Two sets of scale plans of the premises, scale 1:50 (or alternative scale with prior agreement of the Licensing Authority), in respect of which the licence is sought showing (inter alia) all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street.
- ii. Two sets of site plans, scale 1:1250 or 1:2500, showing the premises in relation to other premises in the area.
- iii. Two sets of plans showing the existing and, if different, the proposed front elevation of the premises including all signage.
- iv. The original Disclosure Scotland Certificate for:

- (a) the applicant (if an individual)
- (b) each of the partners (if the applicant is a partnership)
- (c) each of the Directors, Secretary and other persons responsible for its management (if the applicant is a company)
- (d) each of the persons whose names appear in response to question 26.

(NOTE the requirement for these certificates may be waived if the appropriate checks can be carried out by Northumbria Police)

v. Two copies of a passport size photograph in respect of:

- (a) the applicant (if an individual)
- (b) each of the partners (if the applicant is a partnership)
- (c) each of the Directors, Secretary and other persons responsible for its management (if the applicant is a company)
- (d) each of the persons whose names appear in response to question 26.

The photographs are to be dated, bear the name in block capitals of the person whose likeness it bears and be signed by the person making the declaration.

vi. An Operating Schedule to permit the Council to determine whether the Premises will operate as a Destination Lap Dancing Bar or as another type of Sexual Entertainment Venue.

7.6 As part of the application process, applicants are required to post an A4 notice at the proposed site for 21 days, from the date the application is lodged with the Council, setting out the application details. Notices are available from the Council. The notice must be posted in a prominent position for the whole of that time and be easily read by passers-by.

7.7 A copy of the full application, including all enclosures, must be sent to the Chief Constable of Northumbria Police, c/o Licensing Co-ordinators, Northumbria Police, Market Street, Newcastle upon Tyne, NE1 6XA.

- 7.8 Applicants are also required to place a public notice in the Newcastle Journal or Newcastle Evening Chronicle newspaper, at their expense. A specimen advertisement is available from the Council. The newspaper notice should appear in the publication within 7 days of the application being lodged.
- 7.9 Applications, including plans, may be viewed at Newcastle City Council's website
- 7.10 Comments on applications may be sought from any persons as deemed appropriate by the Council.
- 7.11 Any licence approved does not constitute any approval under any other Acts (eg the Town and Country Planning Act 1990) or Bye-Laws. The applicant must ensure that all other necessary consents and approvals are obtained prior to operation.
- 7.12 The Council will not determine an application for grant of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sexual entertainment venue to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sexual entertainment venue.
- 7.13 The licence document will have the agreed days and hours of operation set out, together with any other specific and/or standard conditions applied. Licence holders must comply with the requirements and conditions stipulated in the licence document.
- 7.14 Renewal of Licences  
To continue operating as a sexual entertainment venue, licence holders must make a renewal application prior to the expiry of the existing licence.
- 7.15 The Council will not determine an application for renewal of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sexual entertainment venue to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sexual entertainment venue.
- 7.16 Variation of Licence  
The application form, with relevant plans and fee should be sent to the Council. Applications for a variation of a licence are also subject to the site and newspaper notice requirements set out in the above paragraphs 7.6 and 7.8.

- 7.17 Variation applications relate only to proposed changes to such matters as the hours and area of the premises covered by the licence. Any changes in Licensee must be the subject of a transfer application.
- 7.18 All variation applications for sexual entertainment venue licences must be referred to the Licensing Committee for decision if a representation is received from an interested party. Applicants must not operate any revised or varied arrangements until such an application has been approved and any revised or varied licence has been issued.
- 7.19 When an application is made and no representations are received the decision to grant the licence is delegated to the Council.
- 7.20 Transfer of Licence  
When determining an application for the transfer of a licence the Council will have regard to the points set out in paragraphs 6.1 a) to e) and 6.12 a) and b) in respect of the suitability of the applicant.
- 7.21 Representations on an Application  
Any person wishing to object to an application must submit a written representation within the 28 day consultation period specified to the Council, setting out the grounds of objection.
- 7.22 The Council will weigh up and balance the interests of the applicant with those of the local community in reaching a decision on a licence application. Valid representations must be made within 28 days of the application being submitted. The Council also has discretion to consider representations made after the 28 day consultation period although this will be assessed on a case by case basis.
- 7.23 The legislation dictates that, unless a person making representations consents, their name and address shall not be revealed to the applicant. They may also be reluctant to appear before a hearing of the Licensing Committee.
- 7.24 The grounds of any objection made on the application must be provided to the applicant prior to the determination of the application. The report to the Licensing Committee may have full details of the objections, including any actions / undertakings proposed by the applicant to address matters raised.
- 7.25 Additionally, the applicant and any persons who made representations and who wish to attend the hearing will have the

opportunity to address the Licensing Committee before the application is determined.

7.26 Where the Council refuses to grant, renew or vary a licence, or where they revoke a licence, they will, if requested by the applicant or licence holder, send to them within 7 days, a written statement of the reasons for their decision.

7.27 Revocation of a licence

The Council may seek to revoke a licence on the grounds stated in paragraph 6.1 and 6.12 a) and b).

7.28 Before a licence is revoked the licensee will be given the opportunity to appear before and be heard by the Licensing Committee.

7.28 If a licence is revoked the holder of that licence will be disqualified from obtaining or holding a licence in the City of Newcastle upon Tyne for a period of twelve months from the date of the revocation.

## **8 Duration of Licence**

8.1 Sexual Entertainment Venue Licences will normally expire on an annual basis, but can be issued for a shorter term if deemed appropriate. The Council will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of a year at a time to provide certainty to those operating businesses.

8.2 Waivers

It is not considered appropriate to permit waivers from the requirements to hold a sexual entertainment licence. The legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12 month period, providing there is at least one month between each period of entertainment and which itself does not last for more than 24 hours.

8.3 Application Form

A standard application form, including public notices, is available on request from the Council.

8.4 Licence Conditions

The Council has adopted standard conditions for the operation of sex establishments that are set out in appendix B. Where it is reasonable and necessary to do so, Licensing Committee will impose additional proportional conditions on a Licence. Where possible, these will be discussed in advance with operators by officers of the Licensing Authority.

8.5 Fees

8.6 Separate fees are charged depending on whether the application is for a new licence, in order to renew a licence, in order to make major or minor variations or in order to transfer a licence.

8.7 Legislation allows for the Council to set a “reasonable” fee for the determination of licence applications. The Council have calculated the fees from the time taken to process an application, from validation of all documents on receipt, through determination of the application, which will include a committee hearing in certain cases, to final issue of a licence and subsequent regulation of the premises and activity. This time taken is set against the hourly rate of the officers involved in the process to provide the level of fees to be charged.

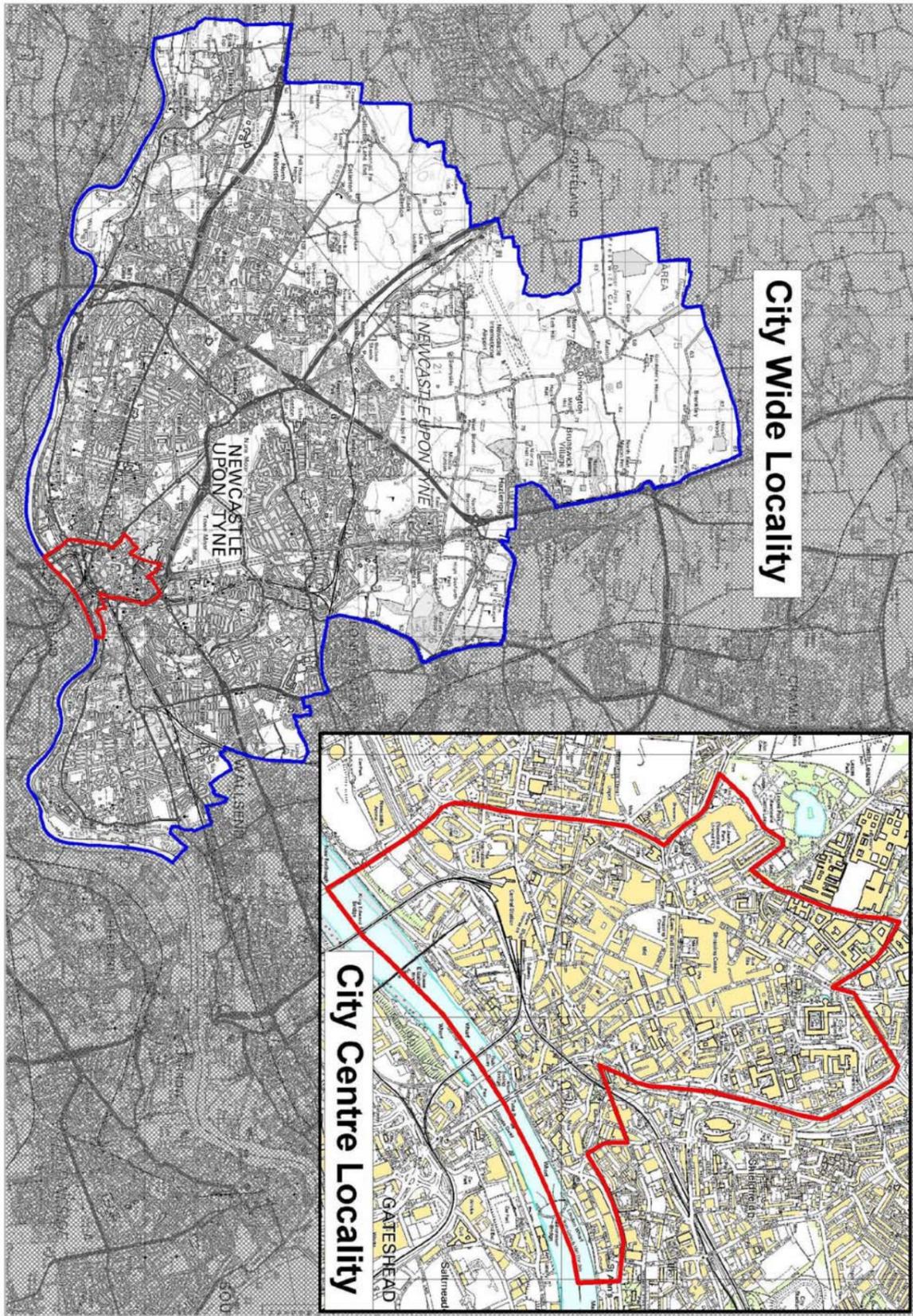
8.8 The European Services Directive and the Provision of Services Regulations 2009 stipulate that fees charged must be proportionate to the effective cost of the licensing procedure, and fees should not be set as an economic deterrent for a particular type of business or to raise funds for the Council.

8.9 Licence fees are set each year and details are available from the Council and at [www.newcastle.gov.uk](http://www.newcastle.gov.uk)

**9 Appeals**

9.1 Grounds for appeal are detailed in Paragraph 27 of Schedule 3, Local Government (Miscellaneous Provisions) Act 1982.

Appendix A



## **Appendix B**

### **Regulations Prescribing Standard Conditions applicable to Licences for Sexual Entertainment Venues**

#### **1. Definition**

- 1.1 In these Regulations save when the context otherwise requires the following expressions shall have the following meanings:
- 1.2 “Sexual Entertainment Venue” shall have the meaning ascribed to them in the Third Schedule of Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- 1.3 “The City Council” means the Council of the City of Newcastle upon Tyne.
- 1.4 “The Licensee” means the person in whose name the licence has been granted in accordance with the Local Government (Miscellaneous) Provisions Act 1982.

#### **2. General**

- 2.1 These Regulations apply to the grant of a licence for a Sexual Entertainment Venue under the Local Government (Miscellaneous Provisions) Act 1982 as amended.
- 2.2. The sub headings inserted in these Regulations are inserted for the purposes of convenience only and shall not affect in any way the meaning or construction thereof.

#### **Part A**

#### **3. Conduct and Management of Sexual Entertainment Venues**

- 3.1 Where the Licensee is a body corporate or an unincorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified to the City Council in writing within 14 days of such change and such written details as the City Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the City Council.

- 3.2 The Licensee must remain in personal control of the premises at all times or nominate an individual, or individuals, in writing, who are over the age of 21, and who have the authority to direct activities within the premises. The Licensee or one of the nominated individuals must be present at the premises whilst it is in operation. The nominated individuals must first be approved by Northumbria Police.
- 3.3 Any individual employed by the Licensee to conduct a security activity on the premises (within the meaning of paragraph 2(1)(a) of Schedule 2 private Security Industry Act 2001) must be licensed in accordance with the relevant legislation.
- 3.4 The Licensee must ensure that a suitable number of trained staff are employed to supervise the interior of the premises (floor supervisors) whilst performances are being given under this licence.
- 3.5 No person under the age of 18 shall be admitted to the premises. Customers who appear to be under age of 21 must be asked to provide photographic proof of their age. The Licensee must provide prominent notices at each entrance to the premises to this effect.
- 3.6 The Licensee shall not permit the display outside of the premises of photographs, company logos or other images which may be deemed offensive. All such displays to be approved by the City Council in addition to statutory approvals. Furthermore, the Licensee shall not cause or permit the advertising of the premises, or the nature of the entertainment thereat, by means of flyers, the content or design of which may be deemed to be offensive.
- 3.7 Where the City Council have given notice in writing to the Licensee objecting to an advertisement, or other images, on the grounds that, if displayed, it would offend against good taste or decency, or be likely to encourage or incite crime, or to lead to disorder or to be offensive to public feeling, that advertisement or image shall not be displayed.
- 3.8 The Licensee shall ensure, to the City Council's satisfaction (including where required necessary planning or building control consents), that the interior of the premises is not visible from the outside of the premises, and that the exterior decoration, signage and advertising is maintained to the satisfaction of the City Council. At no point may performers be visible from outside the premises.

- 3.9 Performances shall only take place on the stage or designated dance areas as agreed, in writing, with the City Council at the point of granting the licence.
- 3.10 The Licensee shall submit a policy to the City Council for approval at the time of the application, to ensure the safety of the performers when they perform and when they leave the premises after a period of work. This policy is to be implemented when the premises are operating.
- 3.11 Performers must dress fully at the end of each performance.
- 3.12 Performers must not accept any telephone number, email address, address, or contact information from any customer.
- 3.13 Performers must never be alone in the company of a customer except in an area open to the public within the premises, or in the dancer areas that are supervised.
- 3.14 The Licensee is to ensure a sufficient number of security staff are employed inside the premises whilst sexual entertainment is provided to supervise the performers and customers.
- 3.15 The Licensee must ensure that during performances to which this licence relates:
  - a) Performers may not perform any sexual activity or sex show or any act that clearly simulates any sexual act.
  - b) Performers may not intentionally touch a customer at any time during the performance.
  - c) Performers may not use inappropriate, suggestive or sexually graphic language at any time
  - d) Performers must never intentionally touch the genitals or breasts of another dancer or to knowingly permit another dancer to touch their genitals or breasts.
  - e) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the performer has no intention of carrying out the act.

- f) Performers only perform nude or semi-nude dancing (of any description) within areas specified by the City Council when the licence is granted.
- 3.16 The Licensee must ensure that during performances to which this licence relates
- i) Customers may not dance at any time.
  - ii) Customers must remain appropriately clothed at all times.
- 3.16A The Licensee, following any such request from the City Council, shall maintain a register of the names and addresses of the performers and, if appropriate, the details of the agencies who supply the performers and such records shall be maintained for no less than 3 months and shall be made available to the City Council as soon as reasonably practicable upon request.
- 3.17 The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of the Licensing Authority and Northumbria Police, and that any images are retained for a period of no less than 28 days and made available upon request by a Police Officer or an authorised officer of the Licensing Authority.
- 3.18 The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the council in relation to compliance with this licence.
- 3.19 Films classified as Restricted 18 by the British Board of Film Classification must not be shown at any time unless statutory approval, in the form of a Sex Cinema licence, has been obtained.

## **PART B**

### **4. Conditions relating to Destination Lap Dancing Bars**

In addition to the conditions in Part A, the following conditions shall also apply to those premises considered by the City Council to be Destination Lap Dancing Bars

- 4.1 Performers shall be not less than 18 years of age. The licensee must maintain adequate records of the names, addresses, and dates of birth of performers, including details of identity checks that have been carried out.
- 4.2 Performers must not perform a nude table dance unless in an area supervised by a member of staff or within five meters of a floor supervisor.
- 4.3 The Licensee must ensure that during the performance of a table dance:
  - a) the customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance.
  - b) Customers must remain seated during the entire performance of the dance
  - c) For the purpose of restraint only, performers may only touch a customer above the customer's chest with their hands only
  - d) Performers must not sit on or straddle the customer
  - e) Performers must not place their feet on the seats.

## **PART C**

### **5. Conditions relating to Premises which are not considered by the City Council to be Destination Lap Dancing Bars but which do provide relevant entertainment**

In addition to those listed in Part A, the following conditions shall apply to those premises which are not considered by the City Council to be Destination Lap Dancing Bars.

- 5.1 Performers shall be not less than 18 years of age.
- 5.2 All relevant entertainment is to be provided only on a stage, podium or in an area agreed with the Licensing Authority at the point of granting the licence.
- 5.3 No private dances, private performances or table dances are to be allowed in the premises.