





**Brighton & Hove
City Council**

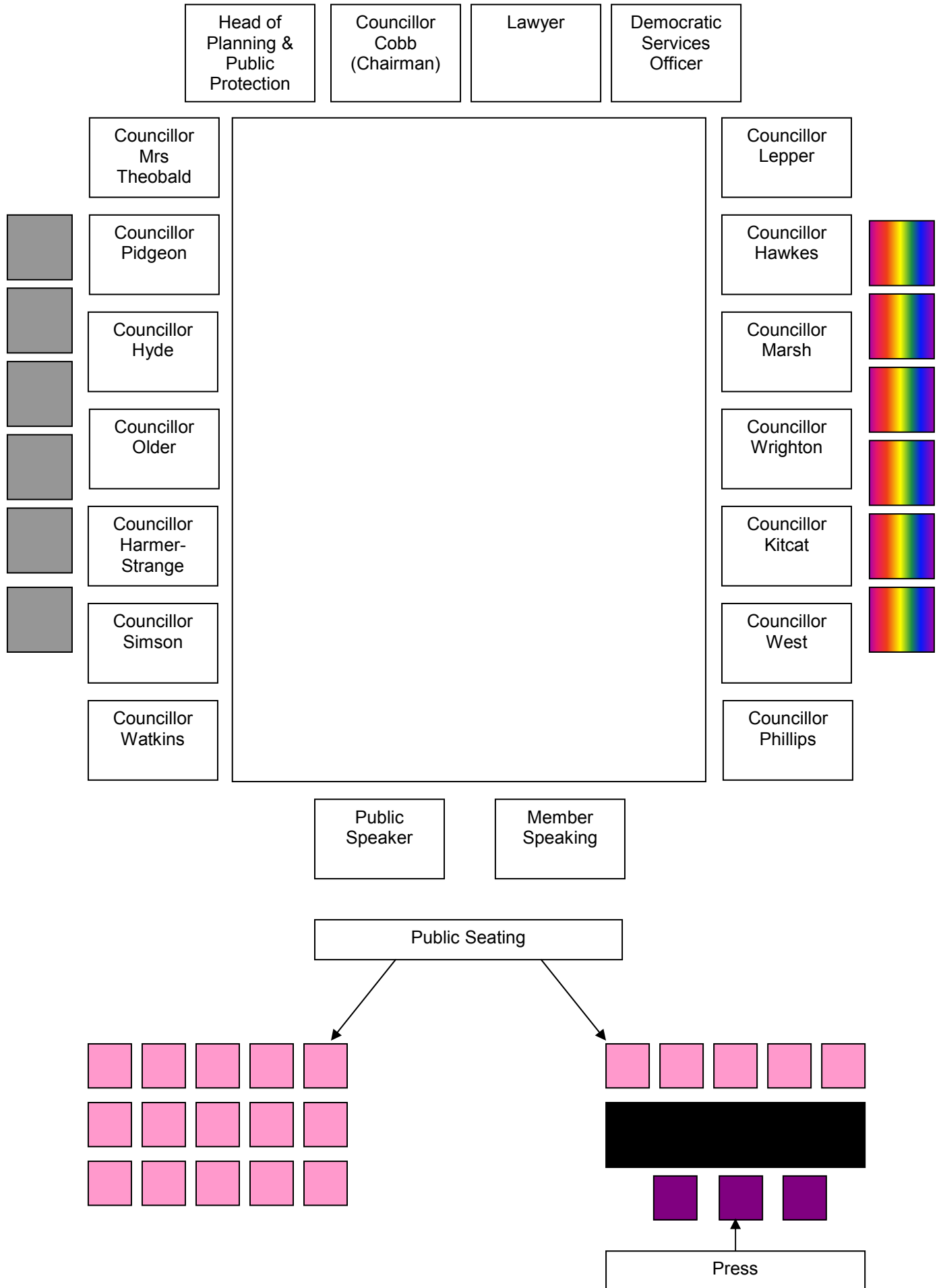
Licensing Committee

(Non-Licensing Act 2003 Functions)

Title:	Licensing Committee (Non Licensing Act 2003 Functions)
Date:	18 November 2010
Time:	3.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Cobb (Chairman), Lepper (Deputy Chairman), , Harmer-Strange, Hawkes, Hyde, Kitcat, Marsh, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins West and Wrighton
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

Part One

Page

13. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.

14. MINUTES OF THE PREVIOUS MEETING 1 - 10

Minutes of the meeting held on 24 June 2010 (copy attached)

15. MINUTES OF SPECIAL MEETING 11 - 18

Minutes of the Special Meeting held on 10 September 2010 (copy attached)

16. CHAIRMAN'S COMMUNICATIONS

17. CALLOVER

NOTE: Public Questions will be reserved automatically.

18. PETITIONS: SWING SIGNS IN UPPER NORTH STREET 19 - 20

Report of the Strategic Director of Resources (copy attached)

Contact Officer: Penny Jennings Tel: 01273 291065
Ward Affected: St Peter's & North Laine;

19. PUBLIC QUESTIONS 21 - 22

(The closing date for receipt of public questions is 12 noon on 11

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 14

Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.30PM 24 JUNE 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cobb (Chairman), Lepper (Deputy Chairman), West, Hawkes, Kitcat, Marsh, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins, Fryer, Smart and Young

Apologies: Councillors Harmer-Strange, Hyde and Wrighton

Officers: Tim Nichols, (Head of Licensing and Environmental Health); Jean Cranford (Licensing Manager); Judy Redford (Access Manager, Disabilities & Diversity); Christina Liassides (Head of Network Management, Sustainable Transport), Rebecca Sidell (Lawyer) and Penny Jennings (Democratic Services Officer)

PART ONE

1. PROCEDURAL BUSINESS

1a Declarations of Substitutes

- 1.1 Councillor Fryer was in attendance in substitution for Councillor Wrighton.
- 1.2 Councillor Smart was in attendance in substitution for Councillor Harmer-Strange.
- 1.3 Councillor Young was in attendance in substitution for Councillor Hyde.

1b Declarations of Interests

- 1.4 There were none.

1c Exclusion of the Press and Public

- 1.5 In accordance with Section 100A of the Local Government Act 1972 (" The Act"), the Licensing Committee (Non Licensing Act 2003 Functions) considered whether the press and public should be excluded from the meeting during an item of business to be transacted or the nature of proceedings, that if members of the press or public were

present during that item, there would be disclosure to them of confidential information (as defined in Section 100(1) of the Act).

1.6 **RESOLVED** – That the press and public be not excluded.

2. MINUTES OF THE PREVIOUS MEETING

2.1 **RESOLVED** – That the Chairman be authorized to sign the minutes of the previous meeting held on 4 March 2010 as a correct record.

3. CHAIRMAN'S COMMUNICATIONS

Taxi Marshal's Scheme

3.1 The Chairman reminded the Committee that at their previous meeting (4 March 2010) they had approved in principle a hackney carriage fee supplement to fund the taxi marshal's scheme. Since that time a wholesale review of taxi licence fees and budgets has been initiated and the outcome would be reported back to Committee in November.

3.2 In the interim it had been considered prudent to meet the cost of funding the marshals from existing budgets rather than to levy a specific fee. The council remained committed to the provision of taxi marshals and would continue to explore future funding options.

Hackney Carriage & Private Hire Vehicles : Suspensions and Revocations

3.3 The Chairman explained that since the last meeting of the Committee had taken place, officers in the Hackney Carriage Office had :

- Suspended 1 driver , in addition 4 drivers had been given formal warnings which would remain on their files for 3 years.

3.4 **RESOLVED** – That the position be noted.

4. CALLOVER

4.1 It was agreed that all items would be reserved for discussion.

5. PUBLIC QUESTIONS

5.1 The Committee considered a report of the Director of Strategy and Governance setting out a question received from Ms G Des Moulins of the Brighton & Hove Federation of Disabled People in the following terms:

“The Brighton and Hove Federation of Disabled People warmly welcomes the recommendations of the Equalities Review and would like to take this opportunity to thank the Chair of Licensing for her support and particularly like to mention Judy Redford for her extremely thorough and far reaching review.

On reading the report it would appear it hasn't addressed the percentage of WAV's currently available because it was viewed the commencement of the Equalities Act in October would be the mechanism to address this issue. We have now heard that the commencement has been delayed, in view of this we would ask the Committee what

they intend to do now to address the inadequate number of WAV's in Brighton and Hove."

5.2 The Chairman thanked Ms DesMoulins for her question and responded as follows:

"It was only recently that the government explained that the scheduled start date for the Equalities Act was likely to be postponed to allow businesses, people, organisations and interested parties to have time to carefully prepare for this significant legislation. Unfortunately, this announcement was made as the equalities review later on this agenda was nearing completion. In the report in front of members today, there are a number of recommendations that should increase the percentage of wheelchair accessible vehicles over time including increasing the age limit for wheelchair accessible vehicles that can be licensed and requiring all new and transferred proprietors' licences for hackney carriages to be accessible.

Having said that, I will ask that the officers continue to work with the Federation of Disabled People and the trade through the taxi forum for policy options to increase the number of wheelchair accessible vehicles and reduce the discrepancy in waiting times for passengers requiring such vehicles.

We do not currently know when the provisions of the Equality Act will come into force and we would welcome any information from the Government Equalities Office on scheduling for implementation."

5.3 The Chairman invited Ms DesMoulins to ask a subsidiary question however, she stated that she did not wish to ask a subsidiary question as such but wished to urge the Council to take a pro-active approach in addressing this matter.

5.4 **RESOLVED** - That the response be noted.

6. SEX ESTABLISHMENT LICENSING POLICY PROGRESS REPORT

6.1 The Committee considered a progress report of the Director of Environment the purpose of which was to update Members on the policy review which was being undertaken.

6.2 The Head of Environmental Health and Licensing, Mr Nichols referred to the two previous update reports considered by the Committee on 5 February and 26 November 2009 which had detailed progress of the Policing and Crime Bill relating to sex establishments including lap dancing clubs. There was an existing policy on sex establishments, sex shops and sex cinemas which included standard conditions. That policy had been reviewed and extended to cover the new category of sex entertainment venues (lap dancing).

6.3 Councillor Simson stated that she welcomed the report. Limits were already in place to control these activities and she considered that there was a need to look at sex encounter establishments in a well governed way too. She considered that paragraph 2.2 which referred to the need for a political steer should be deleted. The Committee was non-political and there had been cross party agreement between Members in relation to policies to be adopted, this recommendation was therefore superfluous.

- 6.4 Councillor Hawkes concurred, stating that the council should be proud of the pro-active stance it had taken in seeking to apply rigorous controls and out down clear markers that there was a presumption against setting up establishments in certain locations e.g. close to schools.
- 6.5 Councillors Lepper and Marsh were also in agreement, Councillor Lepper was pleased to note how far this matter had progressed and that the policy had been rationalised as part of the consultation process. She awaited the results of the consultation with interest.
- 6.6 Councillor Marsh agreed that Paragraph 2.2 was unnecessary as all Councillors gave a “steer” on various issues as part of their elected role, this did not need to be expressly stated.
- 6.7 The Head of Environmental Health and Licensing stated that recommendation had been included to facilitate debate and that he was happy to remove it if that was the wish of the Committee.
- 6.8 Councillor Kitcat stated that as this issue affected the city as a whole and had wider ramifications than within the council itself, he considered that Paragraph 2.2 should be retained as it could not be assumed that there was a consistent view. Councillor Cobb, the Chairman disagreed stating that the Committee itself was cross –party and non-political. A vote was taken subsequently and it was agreed by the majority of members that Paragraph 2.2 would be removed. Paragraph 2.3 then became Paragraph 2.2.
- 6.9 Councillor Kitcat went on to say that he broadly welcomed the report although he considered that some of the comments contained within it were contradictory and confusing, (particularly as a fees report was not before the Committee that day). Although he was pleased to note that emerging issues for instance how this would effect LGBT premises, the need for an equalities impact assessment to be carried out and the manner in which premises putting on “burlesque” entertainment would be treated within the framework of existing policies and legislation, he cited Birmingham and Milton Keynes where the fees charged to establishments were considerably lower than in Brighton and Hove. He considered they were too high and should be considered as part of any review. He considered it was appropriate for the level of fees charged to licensed sex shops should be less than for sex entertainment venues. Councillor West concurred in that view.
- 6.10 The Chairman, Councillor Cobb stated that it would be inappropriate to discuss fees at that meeting as a report would be brought to a future meeting.
- 6.11 Councillor Kitcat whilst understanding there were timescales for consultation considered that members needed to be fully involved in that process and was concerned that no “slippage” occurred, he was firmly of the view that Licensing Committee meetings should be held on a more regular basis than was currently the case.
- 6.12 The Head of Environmental Health and Licensing explained that reference to the results of the consultation process would be included in the report back to Committee at its next scheduled meeting in November 2010.

- 6.13 Councillor Simson referred to the number of sex entertainment venues currently operating in the city, querying whether there was already extant permission for another. The Head of Environment Health and Licensing explained that although a further permission had been given, which would make a total of 4, that permission had not been activated. In answer to further questions he explained that restricting the appropriate number to 3 would still provide sufficient flexibility for an exception to be made if deemed appropriate.
- 6.14 Councillor Simson expressed concern regarding an adult shop situated in Ship Street where explicit material; had been prominently displayed both in the shop window and on an A Board outside. The Head of Environmental Health and Licensing stated that further detailed work was taking place in relation to administration/enforcement to ensure that any restrictions applied were workable; this work would be encouraged within the overall review.
- 6.15 Councillor West stated that he was seeking to understand how this industry worked, as this was germane to formulation of the Council's policies and how they were applied. He had been informed that girls working in lap dancing and similar establishments canvassed customers for trade both within these premises and outside and that this was the nature of the trade.
- 6.16 Councillor Hawkes stated that she profoundly disagreed with such comments, given that a number of young women employed in the industry were young and vulnerable, a number of the policies sought to protect them.
- 6.17 Councillor West stated that he did not hold a view regarding employment practices but considered that such matters should form part of the review.
- 6.18 Councillor Simson said that young ladies had been observed handing out cards advertising such clubs on occasion; it was difficult to control activities once staff had left a premises. Agreed policies were intended to ensure that appropriate levels of control were in place. Councillor Smart stated that the policy document was clear on these issues.
- 6.19 Councillor C Theobald noted that the consultation period would run for 12 weeks, a sufficient period for a range of comments to be received.
- 6.20 The Chairman stated that individuals had differing views and that these could be taken into account as part of the review consultation.
- 6.21 A vote was taken and it was agreed on a vote of 11 with 4 abstentions that Paragraph 2.2 of the circulated report be removed, thus Paragraph 2.3 would then become Paragraph 2.2. A further vote was taken in respect of the remaining recommendations and Members voted unanimously that these be agreed.
- 6.22 **RESOLVED** – (1) That the Committee asks officers to bring the results of the consultation and the Sex Establishment Licensing Policy to the Licensing Committee in November 2010; and

(2) That full Council is recommended to pass a resolution specifying that amendments made by Section 27 of the Policing and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to Brighton & Hove on a specified day at least one month after the day on which the resolution is made. The specified day will be 19 November 2010.

7. EQUALITIES REVIEW OF TAXI LICENSING SERVICE

- 7.1 The Committee considered a report of the Director of Environment which sought to review the effectiveness of Hackney and Private Hire services in meeting the needs of residents, particularly those with disabilities and to seek the Committees' recommendations for actions to address adverse impact and or to promote equality.
- 7.2 The Legal Adviser to the Committee explained that a letter had been received from lawyers acting on behalf of the trade referring to the consultation period stating that it had been insufficient and that further consultation was required. The Council's own legal advice was in agreement and therefore the Committee were asked to note the report before them, a further report would be submitted to their November meeting following the consultation process.
- 7.3 The Chairman welcomed the report and thanked the equalities officers for their work which she considered would strengthen services and help to eliminate discrimination and promote positive attitudes towards disabled people. The report underlined the Council's commitment to equalities and the need to promote equality. The priority placed by the Brighton & Hove Federation of Disabled People on transport and why it was crucial for disabled people to have confidence in local operators was recognised.
- 7.4 The Access Manager (Disabilities and Diversity) introduced the report and stated that notwithstanding that the start date for the Equalities Act had been postponed officers would continue to work with the Federation of Disabled People and the trade (through the taxi forum) to increase the number of wheelchair accessible vehicles and to reduce the discrepancy in waiting times for passengers requiring such vehicles.
- 7.5 Councillor Kitcat enquired whether if, consideration of the report was deferred that day the same report would be submitted to the net scheduled meeting of the Committee or whether it would be re-written and updated. The Head of Environmental Health and Licensing confirmed that the re-submitted report would be amended/updated to incorporate input received from the extended consultation. He considered that the gap between meetings was too great and that they should be held more frequently. Councillor Kitcat stated that it was vital Members were afforded the opportunity to provide feedback.
- 7.6 Councillor West considered it was important that Members were also afforded the opportunity to facilitate the process by attending Taxi Forum meetings, the other main parties on the Council had representation on this body, he had previously requested that a "green" representative be invited to attend these meetings. He was now reiterating this request. The Head of Environmental Health and Licensing explained that this body (representing the taxi trade in Brighton and Hove) was totally separate from the Council and had its own constitution, the Chairman and Deputy Chairman received invitations to attend these meetings direct from the Forum.

- 7.7 Councillor Simson stressed that it was important to get this “right” without building in any undue delay. She considered it would be appropriate to convene a special meeting of the Committee in order to determine this matter in advance of the next scheduled meeting of the Committee.
- 7.8 Following further discussion the Chairman sought the Committees’ agreement that a further special meeting of the Committee be held following completion of the further consultation process.
- 7.9 A vote was taken and Members voted unanimously that a further special meeting of the Committee be held.
- 7.10 **RESOLVED** - That the content of the report be noted and that the Committee reconvene for a special meeting to consider and approve recommendations as soon as practicable following completion of the current extended consultation process but no later than 10 September 2010.

8. RESPONSE TO THE REPORT OF THE OVERVIEW & SCRUTINY COMMITTEE SCRUTINY PANEL ON STREET ACCESS ISSUES

- 8.1.1 The Committee considered a report of the Director of Environment setting out the response to the report of the Overview and Scrutiny Committee Scrutiny Panel on “Street Access Issues.” The scope of the Panel was also set out.
- 8.2 The Head of Network Management, Sustainable Transport, Ms Liassides explained that the scrutiny review had been set up following concern regarding concern accessibility of the city’s public highways. The Panel had sought to examine the competing needs of different highway users. The full report was appended and summarised the evidence obtained, findings and recommendations considered by officers with lead roles in highway placements. As not all of the recommendations contained in the report fell within the Committees’ responsibilities Ms Liassides guided the Committee through those recommendations.
- 8.3 The Chairman of the Scrutiny Panel, Councillor Watkins was invited to address the Committee but stated that he did not wish to add anything to his circulated submission.
- 8.4 Councillor Pidgeon referred to the proliferation of A Boards at certain locations across the city and enquired regarding the measures in place and level of enforcement required in order to ensure compliance. Ms Liassides explained that if sufficiently clear and rigorous policies were in place measures to curtail any nuisance could be undertaken by officers from several departments. The majority of businesses complied so officer time was generally spent addressing the worst offenders. Councillor Pidgeon enquired regarding punitive measures taken and regarding the number of licences issues. It was explained that steady progress had been made over recent months and that 20 new licence applications were currently being processed.
- 8.5 Councillor West enquired regarding profits to the Council arising from the issuing of licences. It was explained that the Council received an income from but did not make a profit from these activities, it was permitted to cover its costs. The level of fees charged was reviewed annually to ensure that these were reasonable.

- 8.6 Councillor Simson sought confirmation that policies were applied on a city wide basis as she was aware that problems had occurred on estates in more outlying areas of the city. It was explained that certain areas of the city were zoned, therefore specific policies and requirements applied within them. However, that did not prevent nuisances occurring elsewhere in the city from being investigated and appropriate action being taken. Notwithstanding that officers had a large workload and a large area to cover a systematic approach was adopted.
- 8.7 Councillor Hawkes who had also sat on the Panel stated that the Panel had genuinely sought to take account of the diversity of the city and to encompass the differing views expressed. In regulating and licensing the use of public highways the council sought to strike a balance between the needs of competing interests, although this was based on the premise that there should be free, unfettered access for all public highway users in Brighton and Hove. The Panel had considered that a robust, consistent enforcement regime on street access issues was vital.
- 8.8 Councillor C Theobald welcomed the practical approach suggested by the review referring to estate agents utility boxes being placed on council owned land at some locations requesting that enforcement action be taken if permissible. Councillor Lepper also welcomed this approach and referring to A Boards in the shopping parades at Fiveways within her own ward where nuisances sometimes occurred. She suspected that most of these boards were too flimsy to require a licence it would be appreciated if officers could investigate this matter further.
- 8.9 Councillors Kitcat and West also welcomed the report and commended the in depth work carried out by the Panel expressing their hope that the level of resources provided would be sufficient to enable effective enforcement to take place.
- 8.10 A vote was taken and Members voted unanimously to approve the recommendations set out below.
- 8.11 **RESOLVED** – (1) That the Licensing Committee notes, the evidence, findings and recommendations of the Overview & Scrutiny Committee and its scrutiny panel in relation to Street Access Issues;
- (2) That the Licensing Committee agrees the actions in the responses to Recommendations 1, 2, 5 and 6 (Appendix 1); and
- (3) That the Licensing Committee notes the responses to Recommendations 4 and 13 (Appendix 1). Recommendation 13 is subject to the council's corporate enforcement policy.

9. ITEMS TO GO FORWARD TO COUNCIL

- 9.1 **RESOLVED** - That Item 6, "Sex Establishment Licensing Policy Progress Report" be forwarded to Council for approval of Paragraph 2.2 as amended.

The meeting concluded at 5.40pm

Signed

Chairman

Dated this

day of

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)	Agenda Item 15 Brighton & Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 10 SEPTEMBER 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cobb (Chairman), Lepper (Deputy Chairman), Allen, Davey, Harmer-Strange, Hawkes, Hyde, Janio, Older, Pidgeon, C Theobald, Wakefield-Jarrett, West and Wrighton

Apologies: Councillor Watkins

PART ONE

10. PROCEDURAL BUSINESS

CONDUCT OF PUBLIC MEETING

Before proceeding to the formal business of that afternoon's meeting the Chairman reminded those present that although it was a public meeting, this Committee was not webcast and that any tape recording, photographing, use of mobile telephones or any other apparatus to record the meeting was prohibited and that mobile phones should be switched off for the duration of the meeting.

10a. Declaration of Substitutes

10.1 Councillor Allen was in attendance in substitution for Councillor Marsh, Councillor Davey was in attendance in substitution for Councillor Kitcat, Councillor Wakefield-Jarrett was in attendance in substitution for Councillor Phillips and Councillor Janio was in attendance in substitution for Councillor Simson.

10b. Declarations of Interest

10.2 There were none

10c. Exclusion of Press and Public

10.3 In accordance with Section 100A of the Local Government Act 1972 ("The Act") the Committee considered whether the press and public should be excluded from the meeting during consideration of any item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in Section 100A(3) of the Act) or exempt information (as defined in Section 100(1) of the Act).

10.4 **RESOLVED** – That the press and public be not excluded.

11. PUBLIC QUESTIONS

11.1 There were none.

12. EQUALITIES REVIEW OF TAXI LICENSING SERVICE

12.1 The Committee considered a report of the Acting Director of Environment and setting out the results of the review of the taxi licensing service. Acting Director of Strategy & GovernanceThe report set out the evidence and findings of the review and included the trade's response to the findings. A number of recommendations arose from the review and the Committee was required to approve/ amend them.

12.2 The Equalities Manager introduced the report stating that the aim of the review had been to review the effectiveness of Hackney Carriage and Private Hire services in meeting the needs of our citizens, in particular disabled people, and to seek the Committee's recommendations for actions to address adverse impact and/or to promote equality. At the meeting of the Committee held in June it had been agreed to extend the consultation period, this period of consultation had ended on 12 August and the responses received had been incorporated in the updated and amended report before the Committee that day.

12.3 The Equalities Manager explained that the Disability Discrimination Act (DDA) was due to be revoked and would be replaced by the Equalities Act which would also include the public sector disability equality duty referred to in the report. The implications of the new Act for disabled passengers, the council and the trade in the city were still not entirely clear. However, the review had been undertaken with the new legislative requirements in mind.

12.4 The Chairman stated that the administration took its equalities duties very seriously and wished to encourage disabled people to take a full part in community life and to promote equality of opportunity for able bodied and disabled people. The report before the Committee presented a package of measures which should significantly improve taxi services for all passengers including disabled people. It should raise the standard of service, provide a robust complaints procedure, improve training and awareness of drivers and keep drivers sensitive to passenger needs in undertaking their day to day work with all passengers. She had concerns however in relation to recommendation 8b.

- 12.5 The Head of Environmental Health and Licensing explained that 3 amendments had been received two in respect of recommendation 8b and one in respect of recommendation 9. Councillor Lepper stated that she had met with Councilor West immediately prior to the meeting and that they had agreed a proposed amendment. The Chairman stated that there was a proposed amendment which she also wished to put. The Chairman confirmed that the Committee was not “political” in its decision making and that the proposed amendments including her own were being put proposed and seconded by individual councillors and would be voted on by the Committee in due course.
- 12.6 Clarification was sought regarding the process for determining the recommendations set out in the report. It was explained that each of the proposed amendments would be considered in numerical order in the order which they had been notified. Debate and discussion would then take place in respect of each of the amendments, they would then be voted on in turn, and would either be agreed or lost. The remaining recommendations would then be discussed prior to a vote being taken on each of the recommendations including any amendments if agreed.
- 12.7 Councillor Cobb stated that she was concerned that recommendation 8b was a distraction. From experience, the increasing number of wheelchair accessible hackney carriages had had no effect on improving the service for disabled people and this appeared to be borne out by the information contained on page 30.
- 12.8 Councillor Cobb, the Chairman proposed the following amendment in relation to recommendation 8b; this was seconded by Councillor Hyde.
- “That the Committee resolves to maintain its existing policy to increase the number of hackney carriage vehicle licences issued annually, such licences to be issued in May each year. This policy should be reviewed at the next Licensing Committee scheduled for 18 November 2010.
- 12.9 Councillor Lepper put the following amendment to recommendation 8b which was seconded by Councillor West:
- Replace the text with:
“That the Committee approves the immediate release of five new hackney carriage vehicle licences with a wheelchair condition to the next waiting list applicants.”
- And append:
“ That the Committee agrees to the increase of the number of new hackney carriage vehicle licences, issued via the “managed growth” policy, from two to five per year with a wheelchair accessibility condition, until the implementation of the taxi provisions on the 2010 Equalities Act are enacted, or the next unmet demand survey is undertaken.”
- 12.10 Councillor Older sought clarification regarding the recommendations being set before them querying whether it was appropriate for the Committee to vote on all of the recommendations at the present time in advance of the appropriate legislation coming into force. Councillor Janio expressed similar concerns and whilst noting that was general support across the taxi trade for the proposals, in his views that was not

necessarily a concern for the Committee as Members needed to be mindful of the needs of the city as a whole.

- 12.11 Councillor Older also stated that in her view it was important to establish the number of wheelchair users in the city and the number of licences issued annually. Councillor Older also enquired whether all vehicles were obliged to carry wheelchair bound customers irrespective of whether they were WAV's or not.
- 12.12 The Head of Environmental Health and Licensing explained that there were limited circumstances under which exemptions (on medical or other grounds) could be applied for and granted but if so, exemptions applied to individual drivers rather than to vehicles. An exemption certificate could be granted for multiple reasons.
- 12.13 Councillor Pidgeon stated that WAV vehicles were unsuitable for a number of customers who were disabled but not wheelchair bound as the seats were very high which could create problems with accessibility.
- 12.14 In answer to further questions the Head of Environmental Health and Licensing explained that whatever number of licences agreed upon that afternoon, when the requirements of the new legislation came into place the number of licences to be released would be likely to need to increase significantly.
- 12.15 Councillor Lepper stated that having seen an earlier draft of the report which had referred to a figure of 5 licences (recommendation 8b) she was disappointed to find that this figure had been reduced in the final version and that it was now proposed that this figure be reduced further pro-tem. At the Committee meeting held the previous autumn she had agreed to a reduction in the number of licences granted on the basis that she had believed that was temporary and, that the number of licences to be granted would increase to the previous level in subsequent years. She was of the view that this needed to be addressed and was putting the proposed amendment before the Committee accordingly.
- 12.16 Councillor West stated that this was the reports second outing at Committee following consideration at its previous meeting on 24 June. It had undergone revision in light of the extended consultation period and represented an appropriate way forward. He was entirely in agreement however that the wording of recommendation 8b should be amended as suggested and did not consider that any substantiated reasons for a reduction had been made. It was necessary to increase the balance of WAV's and back loading accessible vehicles available.
- 12.17 The Chairman, Councillor Cobb reiterated her earlier comments in support of her proposed amendment of recommendation 8b that she considered that the number of vehicle licences proposed was a distraction which would not necessarily increase the number / accessibility of vehicles on the road. Whilst the role of the Committee was not simply to agree measures which were acceptable to the trade, the report represented a whole range of measures which were in the public interest of those using taxis in the city.
- 2.18 Councillor Hyde enquired whether if a driver was in possession of a WAV vehicle it was compulsory that they pick up wheelchair bound customers. She stated that she was of

the view that it would be preferable to await the imposition of the legislation and to review the matter then. The matter required careful consideration as it was clear that number of customers were not in support of WAV vehicles.

- 2.19 The Equalities Manager responded that if a driver did not possess a medical exemption they would have to have a very good reason not to pick up a customer otherwise their refusal would be actionable; such action would be an offence under the new legislation.
- 2.20 Councillor Janio stated that if provision of back loading vehicles was included within the recommendation that he would be able to support it.
- 2.21 Councillor C Theobald enquired regarding the procedure for logging and processing of any complaints received and in respect of action which would be taken by the Department.
- 2.22 Councillor Hawkes stated that she was conscious of the need to consider issues in the round, also considering that it was important to move towards agreed best practice. She, would however, be very concerned by any assumption that implementation could be delayed; she did not consider that was an option. Councillor Wrighton concurred in that view.
- 2.23 Councillor Hawkes also sought clarification of what “de-limiting would mean in practice. The Head of Environmental Health and Licensing explained that if the appropriate percentage of WAV’s had been reached when the legislation came into force no further action would be required by the trade or the licensing authority. It was very unlikely that this would be the case.
- 12.24 A vote was taken on the amendment to recommendation 8b put by Councillor Cobb, the Chairman and seconded by Councillor Hyde. This was lost on a vote of 4 to 7.
- 2.25 A vote was then taken on the proposed amendment put by Councillor Lepper and seconded by Councillor West. This was agreed on a vote of 7 to 4.
- 12.26 Councillor West proposed the following amendment to recommendation 9 which was seconded by Councillor Janio:
- “Replace: 1 April 2011 with 1 April 2012”; and
- “Append: The Director of Environment will define a scheme to ensure the installation of clear visible signage accompanies the camera installation.”
- 12.27 Councillor Janio supported Councillor West’s amendment stating that in the current economic climate he considered it was important to have a longer lead in time for compliance. He also considered that it was important for clear signage to be provided within the vehicles.
- 12.28 Councillor Lepper stated that she supported the proposed amendment. Whilst fully acknowledging the need for CCTV equipment to be fitted into vehicles and the support that existed for this within the trade itself she was in agreement that there should be a lead in time.

- 12.29 Councillor Wrighton also supported the amendment stating that the provision of CCTV would provide protection for taxi drivers and for young women or other vulnerable people. She asked whether if an attack took place in a vehicle whether this information would be relayed direct to the Police. It was explained that was technically possible but would result in additional costs for operators and it was uncertain whether "live" footage could be picked up in all areas of the city.
- 12.30 Councillor Harmer-Strange enquired regarding the number of vehicles which reached the point at which they were beyond economic repair each year, but was informed that this figure was variable.
- 12.31 A vote was taken and on a vote of 10 to 1 the amendment was carried. A vote was then taken on all of the remaining recommendations in turn; these were agreed without discussion or debate.
- 12.32 **RESOLVED** - That the Committee approves the recommendations shown in Appendix A to the report as follows:

Recommendation 1 – Agreed;
*Recommendation 2 – Agreed;
Recommendation 3 – Agreed;
Recommendation 4 – Agreed;
Recommendation 5 – Agreed;
Recommendation 6 – Withdrawn;
Recommendation 7 – Agreed;
Recommendation 8 – Agreed;
*Recommendation 8a – Agreed;
Recommendation 8b – As Amended;
Recommendation 9 – As Amended;
Recommendation 10 – Agreed;
Recommendation 11 – Agreed;
Recommendation 12 – Agreed;
Recommendation 13 – Agreed;
Recommendation 14 – Agreed;
Recommendation 15 – Agreed;
Recommendation 16 – Agreed.

* In relation to Recommendation 2 the Equalities Manager stated that the BTEC qualification referred to would still be available at 31 December 2010.

The meeting concluded at 5.15pm

Signed

Chairman

Dated this

day of

LICENCING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 18

Brighton & Hove City Council

Subject:	Petition :	
Date of Meeting:	18 November 2010	
Report of:	Strategic Director, Resources	
Contact Officer:	Name: Penny Jennings	Tel: 29-1065
	E-mail: penny.jennings@brighton-hove.gov.uk	
Key Decision:	No	
Wards Affected:	St. Peter's & North Laine	

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To receive any petitions presented at Council, any petitions submitted directly to Democratic Services or any e-Petition submitted via the council's website. The following petition to be presented directly to the Licensing Committee (Licensing Act 2003 Functions).

2. RECOMMENDATIONS:

- 2.2 That the Cabinet Member/Committee responds to the petition and in each case gives consideration to a range of options, including the following:
- taking the action requested in the petition
 - considering the petition at a council meeting
 - holding an inquiry into the matter
 - undertaking research into the matter
 - holding a public meeting
 - holding a consultation
 - holding a meeting with petitioners
 - referring the petition for consideration by the council's Overview and Scrutiny Committee*
 - calling a referendum
 - writing to the petition organiser setting out the council's views about the request in the petition

3. PETITIONS

- X. (i) To receive the following petition (containing 6 signatures) :

A covering letter was received in the following terms:

"On Tuesday August 31, we had a visit from one of your enforcement officers informing us that our (and several other businesses on Upper North Street) swing signs on Western Road were an obstruction to the

walkway and were told to remove them. This was done in response to a complaint by a Blind and Disabled Citizen Group.

In response to this decision, we have created a petition for the businesses of Upper North Street, Brighton BN1 3FG, stating that this would have a profound impact on our businesses. For small businesses, such as ours on Upper North Street, any help from the Council to keep our businesses above ground when so many are closing, would be greatly appreciated.

1.2(i) The wording of the petition is as follows:

“From the Traders of Upper North Street:

We have recently been advised that any remote advertising more than 5m from our shop front cannot be displayed. And this is mainly swing signs located on Western Road. The reason behind this new decision was from an Disabled Citizens group, saying that the swing signs were an obstruction for the blind and those in wheelchairs. Most of the signs are located in areas that are not obstructing the path, especially no more than any bike rack, remote vendors, sitting bench, bus stop or any other structures that are on Western Road.

Without such signs letting the public know that our businesses are up the hill from Western Road, this will greatly affect our business and in a time where economic stability is crucial, it is not something that we can afford.

We are asking that you reconsider this decision and think of the impact it would have on our businesses without this advertising for walk in traffic and helping our clients/customers know exactly where our location is.” (6 signatories).

LICENCING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 19

Brighton & Hove City Council

Subject:	Public Question		
Date of Meeting:	18 November 2010		
Report of:	Strategic Director of Resources		
Contact Officer:	Name:	Penny Jennings	Tel: 29-1065
	E-mail:	penny.jennings@brighton-hove.gov.uk	
Key Decision:	No		
Wards Affected:	St. Peter's & North Laine		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To consider and respond to the following question which will be put by Ms L Tweddell, Retail Operations Manager of "NicenNaughty".

"A sex establishment renewal is £10061 a year, when other discretionary set licensing fees are as little as £500 (a bingo hall).

How does processing an application, a statutory annual visit (which I am sure has to be done for bingo halls), and a visit to check our window display within the year cost £10061, when the Council licensing team can process, monitor and enforce a bingo hall for £500 a year a difference of £9561 a year. What cost analysis has been done by Brighton and Hove to justify £10061 a year for a sex shop when a bingo hall pays £500 or less".

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 20

Brighton & Hove City Council

Subject: Licence fees 2011/2012
Date of Meeting: 18 November 2010
Report of: Strategic Director of Place
Contact Officer: Name: Tim Nichols Tel: 29-2163
E-mail: tim.nichols@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out the proposed licence fees and charges for 2011/12 relating to Street Trading, Sex Establishments and Sex Entertainment Licences, Gambling premises, taxi licensing and other licensing functions.

2. RECOMMENDATIONS:

- 2.1 That the committee approves the following variation to licence fees:
- Taxi licence fees: no increase
 - Street trading: increase by the corporate rate of inflation 2%
 - Sex shops and sex cinemas: increase by corporate rate of inflation 2%
 - Other discretionary licence fees: increase by corporate rate of inflation
 - Gambling licensing: no increase
 - Sex Entertainment Venues: New fee: £4,600.
- 2.2 That the funding of taxi marshals will be phased out over a 6 month period.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 In order to ensure that council tax payers are not subsidising work concerning licensing administration and enforcement, income is raised by licence fees which aim to cover the cost of administration and enforcement of each regime. Licence fees should not be used to raise revenue, however, income is required in order to process applications and minimise risk from unlicensed and unauthorised activities. Unlicensed taxis and taxi drivers present a risk to public safety; unlicensed sex establishments operate without scrutiny and activities present a risk to community and child safety. Unauthorised street trading can cause obstruction of streets, a nuisance to shoppers and cannot be traced for consumer protection purposes. Unlicensed gambling establishments would operate without regulation, giving rise to potential criminal incursion, risk to the vulnerable and lack of consumer protection. Intelligent commissioning will require meeting demand in an informed way, reducing unnecessary financial

pressures and reducing subsidy from council tax payers consistent with corporate charging policy.

Hackney Carriage & Private Hire

- 3.2 At the 24th June meeting of this committee, the Chairman stated that a wholesale review of taxi licence fees and budgets had been initiated and the outcome would be reported back to Committee in November. The review was intended to verify the position in relation to the true income and expenditure of operating the function, this information would then be used to inform future fee setting levels.
- 3.3 Earlier this year, following the receipt of a Freedom of Information Request into the costs of administering the licensing function and the associated fee income, it became clear that the recording of financial information should be amended so as to allow greater transparency.
- 3.4 The Council had always accounted for the activity by matching the income from license fees against the direct costs of running the service; this showed that the income exceeded the direct expenditure. The review identified all expenditure that the Council was incurring in administering the service; this included both direct and indirect costs. Indirect costs for example would include an element of management time to oversee the activity but which had not been previously shown as a cost to the service, but is a legitimate expense in administering the licensing function. The results of this review are set out in the table below.

Financial Year	Balance on Taxi License Fees £000*
2007/08 Actual	6
2008/09 Actual	16
2009/10 Actual	(9)
2010/11 Forecast	(17)
Total Deficit	(4)

- A positive figure represents a surplus

- 3.5 Fees should be set each year to recover the expected cost of administering the service. The figures show that over the last four years, despite some fluctuations the income raised from fees has just about been enough to recover the costs incurred. Therefore, the fees that have been set in previous years have been at the appropriate level.
- 3.6 The initial cost projections for 2011/12 show that if license fee levels increase by the corporately agreed level of inflation of 2% for 2011/12 a slight deficit will occur, this would mean fees would need to increase by a greater sum to achieve a break even budgeted position on the account. The council is committed to keeping the cost of administering the service as low as possible, thereby allowing fees to be set at the minimum level. Therefore, over the coming months a full review will be undertaken of all expenditure within the service to find efficiencies. A realistic target will be to find efficiencies totalling £20,000, if this can be achieved the licence fees for next year can be frozen at the 2010/11 rate, which will be a reduction in real terms of 2%.

- 3.7 The council must have regard to the fact that fees received are intended only to defray expenditure properly incurred. It is considered that the cost of a taxi marshalling service would not fall within the ambit of the taxi license fee setting powers, therefore taxi licence fees cannot be increased to cover the cost of this service. The council will be working with all interested parties to look at alternative courses of action.

Sex shops and sex cinemas

- 3.8 Following the same principles as set out above on Hackney Carriage & Private Hire, a trading position has been established, taking into account all expenditure that the Council has incurred in administering the service, including both direct and indirect costs. (Indirect costs for example would include an element of management time to oversee the activity, a legitimate expense in administering the licensing function). The results of this review are set out in the table below.

Financial Year	Balance on Sex Shops and Sex Cinemas Fees £000*
2007/08 Actual	(2)
2008/09 Actual	1
2009/10 Actual	(7)
2010/11 Forecast	(12)
Total Deficit	(20)

- A positive figure represents a surplus

The initial cost projections for 2011/12 show that if license fee levels increase by the corporately agreed level of inflation of 2% for 2011/12 a deficit will occur. This would mean fees would need to increase by a greater sum to achieve a break even budgeted position on the account. As the council is committed to keeping the cost of administering the service as low as possible, a review of the expenditure will be undertaken over the coming months to find efficiencies, in order to reduce the deficit.

Street Trading

- 3.9 Following the same principles as stated previously, a trading position has been established for Street Trading, taking into account all the council expenditure incurred in administering the service. This would also include an element of management time to oversee the activity. The results of this review are set out in the table below.

Financial Year	Balance on Street Trading Fees £000*
2007/08 Actual	(29)
2008/09 Actual	(33)
2009/10 Actual	(20)
2010/11 Forecast	(17)
Total Deficit	(99)

- A positive figure represents a surplus

Fees should be set each year to recover the expected cost of administering the service. The figures show that over the last four years, the income raised from Street Trading fees has not been sufficient to recover the costs incurred. The initial cost projections for 2011/12 show that if license fee levels increase by the corporately agreed level of inflation of 2% for 2011/12 a deficit will still occur. This would mean fees would need to increase by a greater sum to achieve a break even budgeted position on the account. As the council is committed to keeping the cost of administering the service as low as possible, a review of the expenditure, both direct and indirect, will be undertaken over the coming months to try and find efficiencies, in order to reduce this deficit.

Sex Entertainment Venues

- 3.10 The Policing and Crime Act introduced a new type of venue “Sex Entertainment Venues” (lap dancing clubs). Following the principle of setting a fee to recover the expected cost of providing the service, the initial cost projections show that a licence fee of £4,600 would be appropriate. This will of course continue to be reviewed each year.
- 3.11 Licensing fees are set at a level that officers reasonably expect will cover the cost of service provision.
- 3.12 Proposed fees are set out in Appendix A.

4. CONSULTATION

- 4.1 Council's finance officer and legal services.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 License fees are set annually at a level that it is reasonably believed will cover the costs of providing the service, including enforcement and administration.

Finance Officer Consulted: Karen Brookshaw

Date: 15.10.2010

Legal Implications:

- 5.2 Legal constraints on setting fees
Fees must be charged in accordance with the requirements of the legislation under which they are charged. Thus for instance the Licensing Act 2003 gives the Council no discretion as they are set centrally by the relevant government department. Other legislation such as the Local Government (Miscellaneous Provisions) Act 1982 which covers a whole raft of activities and includes street trading and sex establishments simply states that we may charge such fees as we consider reasonable.

The term ‘Reasonable’ however does not imply wide discretion but incorporates important legal principles and constraints. These were highlighted in the case of *R v Manchester City Council ex parte King*

concerning street trading. This case held that the fees charged must be related to the costs incurred in providing the street trading service. They must not be used to raise revenue generally. This principle is key and applies to other licensing regimes such as sex establishments. This means the fees must be set at a level reasonably expected to cover the cost of providing the service.

This principle has been reinforced by the introduction of the European Services Directive which took effect from the end of 2009. It aims to ensure that licence applications and procedures are transparent and burdens on business kept to a minimum. The processes must be non-discriminatory, justified, proportionate, clear, objective, made in advance, transparent and accessible. The domestic legislation will require “any charges provided for by a competent authority which the applicant may incur under an authorisation scheme must be reasonable and proportionate to the cost of the authorisation procedures and formalities under the scheme and must not exceed those procedures and formalities”. Any fee charged for establishing a service can only be based on cost recovery and cannot be set at an artificial high level to deter service sectors from an area. Application costs can include administration, initial visits, third party costs (e.g. expert advice like a vet), management costs and local democracy costs. The directive also requires that ongoing enforcement costs should be refundable in the event of an application refusal. Council should schedule regular fee reviews.

Therefore the trading accounts must be carefully looked at in accordance with these principles. There is a risk of challenge by way of Judicial Review in cases where fees are set at an unreasonable level which does not relate to the cost of providing the service.

Lawyer Consulted: Rebecca Sidell

Date: 03.11.10

Equalities Implications:

- 5.3 There are no direct equalities implications.

Sustainability Implications:

- 5.4 There are no direct sustainability implications

Crime & Disorder Implications:

- 5.5 There are no direct crime and disorder implications.

Risk and Opportunity Management Implications:

- 5.6 None

Corporate / Citywide Implications:

- 5.7 The city council's ability to raise income impacts on the level of Council Tax and service levels and therefore has citywide implications. A process for a clear, accountable, transparent process for setting fees is set out in appendix B.

SUPPORTING DOCUMENTATION

Appendices:

Appendix A – list of fees and charges.
Appendix B - Flowchart

Documents In Members' Rooms:

None

Background Documents:

None

APPENDIX A

Gambling Act 2005 2010/11 CHARGE PER UNIT as table below 2011/12 PROPOSED CHARGE PER UNIT no change % INCREASE no change

Table of Premises Licence Fees for Brighton & Hove Licensing Authority

Classes of Premises Licence	Reg. 4(2)(a) Conversion - fast track	Reg. 4(2)(b) Conversion - non fast track	Reg. 5(2)(a) Non Conversion - Provisional Statement Premises	Reg. 5(2)(b) Non Conversion - Other Premises	Reg. 6 and Reg. 8 First Annual and Annual Fees	Reg. 10 Change of Circumstance	Reg. 11 Variation	Reg. 12 Transfer	Reg. 13 Copy of Licence	Reg. 14 Reinstatement	Reg. 15 Provisional Statement
Regional Casino	n/a	n/a	n/a [8,000]	n/a [3,000]	n/a [15000]	n/a [50]	n/a [7,500]	n/a [6,500]	n/a [25]	n/a [6,500]	n/a [15,000]
Large Casino	n/a	n/a	n/a [5,000]	n/a [3,000]	N/a [10000]	N/a [50]	n/a [5,000]	n/a [2,150]	n/a [25]	n/a [2,150]	n/a [10,000]
Small Casino	n/a	n/a	n/a [3,000]	n/a [3,000]	N/a [5,000]	n/a [50]	n/a [4,000]	n/a [1,800]	n/a [25]	n/a [1,800]	n/a [8,000]
Existing Casino	£260 [300]	£1,155 [2,000]	n/a	n/a	£1,500 [3,000]	£11.55 [50]	£1,155 [2,000]	£1,155 [1,350]	£11.55 [25]	£1,155 [1,350]	n/a
Bingo Premises	£260 [300]	£1,155 [1,750]	£577.50 [1,200]	£1,155 [3,500]	£500 [1,000]	£11.55 [50]	£1,155 [1,750]	£1,155 [1,200]	£11.55 [25]	£1,155 [1,200]	£1,155 [3,500]
AGCs	£260 [300]	£1,000 [1,000]	£577.50 [1,200]	£1,155 [2,000]	£500 [1,000]	£11.55 [50]	£1,000 [1,000]	£1,155 [1,200]	£11.55 [25]	£1,155 [1,200]	£1,155 [2,000]
Betting – Tracks	£260 [300]	£1,155 [1,250]	£577.50 [950]	£1,155 [2,500]	£500 [1,000]	£11.55 [50]	£1,155 [1,250]	£950 [950]	£11.55 [25]	£950 [950]	£1,155 [2,500]
FECs	£260 [300]	£1,000 [1,000]	£577.50 [950]	£1,155 [2,000]	£375 [750]	£11.55 [50]	£1,000 [1,000]	£950 [950]	£11.55 [25]	£950 [950]	£1,155 [2,000]
Betting - Other	£260 [300]	£1,155 [1,500]	£577.50 [1,200]	£1,155 [3,000]	£300 [600]	£11.55 [50]	£1,155 [1,500]	£1,155 [1,200]	£11.55 [25]	£1,155 [1,200]	£1,155 [3,000]
Lotteries - New								£40.00	*	£40.00	0.00
- Renewal								£20.00	*	£40.00	0.00

Prices shown in pounds (£) are the relevant fees in Brighton & Hove only; prices in square brackets are legal maximum levels for information.

Brighton & Hove City Council
Environmental Health & Licensing
Gambling Act 2005 - Rolling Account

	EVH041 Actual 2009-10	EVH041 Budget 2010-11	EVH041 Budget 2011-12	Rolling 3 year Position
Employees				
Salaries	53,095	32,470	32,790	
National Insurance	4,257	2,790	2,820	
Superannuation	8,798	5,730	5,790	
Advertising				
Training				
Overtime	199			
Agency Staff	(52)	100	100	
Insurance				
	<u>66,297</u>	<u>41,090</u>	<u>41,500</u>	
Premises				
Room Hire				
	<u>0</u>	<u>0</u>	<u>0</u>	
Transport				
Vehicles				
Staff Travel Allowances	251			
	<u>251</u>	<u>0</u>	<u>0</u>	
Supplies & Services				
Office Consumable Costs	946			
Telephone Costs				
ICT Costs		(60)	(60)	
Other Supplies & Services				
Postages				
	<u>946</u>	<u>(60)</u>	<u>(60)</u>	
Support Services				
Departmental Admin Charge	2,597	1,190	1,214	
	<u>2,597</u>	<u>1,190</u>	<u>1,214</u>	
Income				
Grants				
Licences	(60,125)	(39,280)	(40,070)	

	<u>(60,125)</u>	<u>(39,280)</u>	<u>(40,070)</u>	
(Surplus)/Deficit	<u>9,966</u>	<u>2,940</u>	<u>2,584</u>	<u>15,490</u>

Proposed licence fees

	2010/11	2011/12	% increase
Cosmetic piercing (acupuncturists, tattooists, cosmetic piercers, per premises, per additional piercer)	116.00	118.30	2.0%
Street trading			
Upper Gardner Street	576.40	588.00	2.0%
Zone B	690.70	704.50	2.0%
Zone A	4,743.20	4,838.00	2.0%
Street artists	33.00	33.70	2.0%
Misc. short term	33.00	33.70	2.0%
Farmers market per stall	247.70	252.60	2.0%
Small street market per occasion	330.00	336.60	2.0%
Sex Entertainment Venue (lap dancing)	N/A	4,600.00	New fee
Sex establishments			
Grant	11,837.00	12,073.70	2%
Renewal	10,061.45	10,262.70	2%
Occasional	4,044.00	4,124.90	2%
Taxi licences			
First Application	66.00	66.00	0%
CRB check	36.00	36.00	0%
Hackney Carriage/Private Hire Drivers Licence	44.00	44.00	0%
Hackney Carriage Vehicle Licence	180.00	180.00	0%
Private Hire Vehicle Licence	157.00	157.00	0%
Hackney Carriage plate deposit	38.00	38.00	0%
Private Hire plate deposit	28.00	28.00	0%
Private Hire operator licence (1 or 2 cars)	56.00	56.00	0%
Private Hire operator licence (3 or more cars)	197.00	197.00	0%
Animal welfare			
Collection of reclaimed dogs: Statutory charge	26.00	26.52	2%
Dog warden charge	21.00	21.42	2%
Kennelling per day	21.00	21.42	2%
Dog fouling (fixed penalty)	31.00	31.62	2%

Process: Setting Licence fees - 06/xxxx/xx

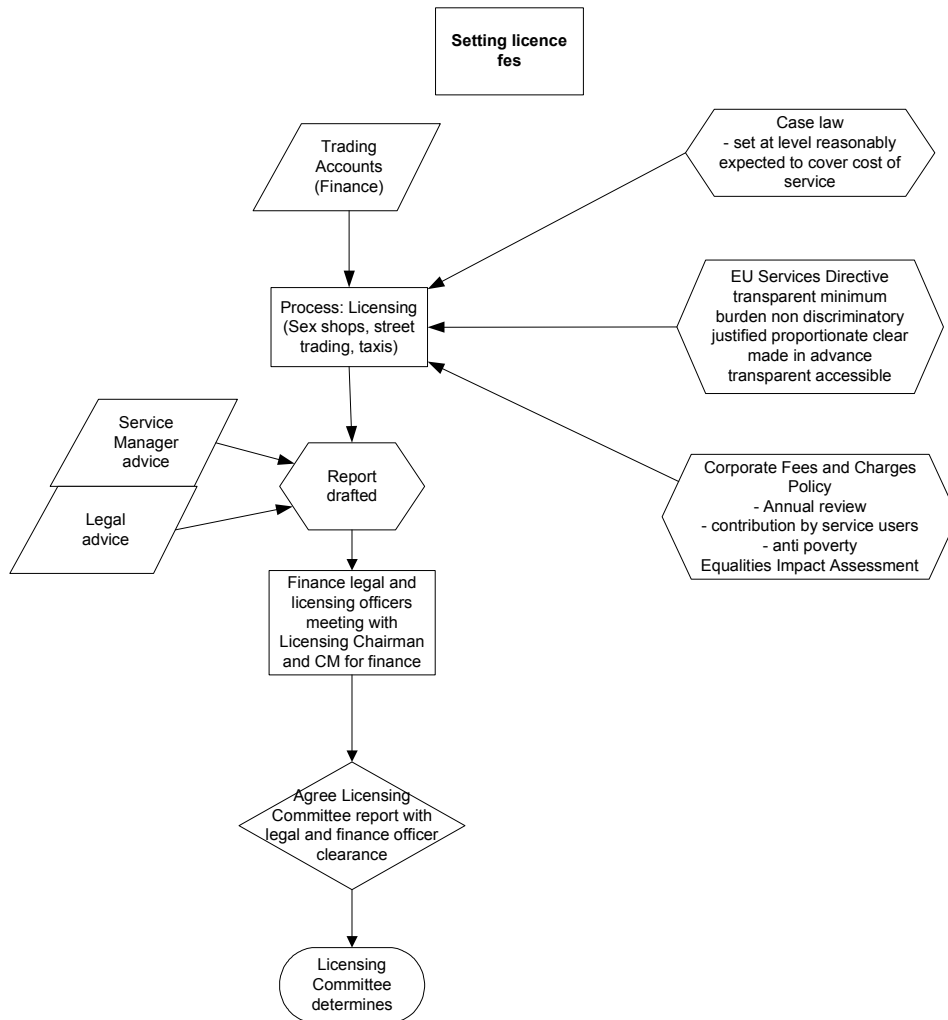
Service: Environmental Health & Licensing

Date: 26/03/10

Version No: 1

Service Manager: Tim Nichols

Author: Jean Cranford



LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

Agenda Item 21

Brighton & Hove City Council

Subject: Sex Establishment Licensing Policy
Date of Meeting: 18 November 2010
Report of: Strategic Director of Place
Contact Officer: Name: Jean Cranford Tel: 29-2550
E-mail: jean.cranford@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 On 5 February and 26 November 2009 and 25 June 2010, the committee were apprised of the Policing and Crime Bill relating to sex establishments including lap dancing clubs.
- 1.2 There is an existing policy on sex establishments, sex shops and sex cinemas which includes standard conditions. That policy has been reviewed and extended to cover the new category of sex entertainment venue.
- 1.3 On the 15th July 2010 full Council passed a resolution specifying that amendments made by Section 27 of the Policing and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to Brighton & Hove with effect from 19th November 2010.

2. RECOMMENDATIONS:

- 2.1 That the committee adopts the Sex Establishment Licensing Policy at Appendix A.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Brighton & Hove City Council adopted Schedule 3 to the 1982 Act (Licensing of Sex Shops and Sex Cinemas). A further resolution was necessary before the provisions introduced by Section 27 of the Policing and Crime Act (Licensing of Premises as Sex Entertainment Venues) was adopted.
- 3.2 A very early draft of sex establishment licensing policy, reviewed and renewed to cover the new category of sex entertainment venue was circulated to the Licensing Strategy Group and Licensing Councillors.

- 3.3 The policy and standard conditions are unchanged except numbers have been tightened by setting maximum appropriate numbers in St. James's Street (2), the station (2) and Hove (1) with nil elsewhere recognising existing arrangements and setting a standard of not normally granting more than 2 in a street. Officers have also deleted the opening times from the standard conditions as experience indicates that these serve no useful purpose and were an unnecessary obstacle to business.
- 3.4 A Sexual Entertainment Venue (SEV) is any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. Relevant entertainment is any live performance or any live display of nudity which is of such a nature that ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience. This covers the following forms of entertainment (though this is not a comprehensive list): Lap dancing; Pole dancing; Table dancing; Strip shows; Peep shows; Live sex shows. There is an exemption for premises which provide such entertainment less frequently than once a month.
- 3.5 As regards Sexual Entertainment Venues, Officers suggest that the committee does not take the absolute zero option (to allow our existing 3 to continue) but the policy is phrased as tightly as possible, restricting the appropriate number to three for the commercial Brighton adult leisure centre (city centre).

4. CONSULTATION

- 4.1 Early consultation was undertaken with the Licensing Strategy Group and Licensing Councillors. Consultation was also undertaken via the licensing pages of the Council's website as well as via the new consultation portal. Existing traders were written to as well as Spectrum (representing LGBT).
- 4.2 The consultation period ran for 12 weeks starting from 15 June 2010.
- 4.3 A copy of responses can be found at appendix B.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

Licensing fees are set at a level that officers reasonably expect will cover the cost of service provision. This includes administration and enforcement of the regime. The licensing fees for sex establishments and the licensing fees for sex shops will be set by a separate report. A trading account has been prepared for the new sex entertainment venue which indicates that a fee of £4,600 would need to be charged in order to cover the cost of providing the service. There are currently 4 sex shops licensed by the council, and 3 licensed premises which would fall into the new category of sex entertainment venue.

Finance Officer Consulted: Karen Brookshaw

Date: 15.10.10

Legal Implications:

- 5.2 The amendments made by S27 of the Police and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 have been adopted and advertised in accordance with the legislation. The Council will apply its adopted policy in determining applications. There will be a 'transitional period' which will last for 12 months starting from 19th November 2010, (the first appointed day); Six months following the 1st appointed day will be known as the '2nd appointed day' (19th May 2011); and the day on which the transitional period ends will be known as the '3rd appointed day' (19th November 2011). To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a Licensing Act 2003 Premises Licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later. New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day, new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence. The European Convention on Human Rights should be taken into account when determining applications. The rights which may be engaged are Article 10 the right to freedom of expression and Article 1 of the first protocol – the right to peaceful enjoyment of possessions. These 2 rights are qualified rights.

Lawyer Consulted: Rebecca Sidell

Date: 18.10.10

Equalities Implications:

- 5.3 New powers would allow communities more influence on location of lap dancing clubs

Sustainability Implications:

- 5.4 None.

Crime & Disorder Implications:

- 5.5 New powers would give local authorities scope to reject applications for lap dancing clubs

Risk and Opportunity Management Implications:

- 5.6 None.

Corporate / Citywide Implications:

5.7 Effectiveness of regulation will need monitoring. Proliferation of lap dancing clubs can affect the character of an area and concern local people.

SUPPORTING DOCUMENTATION

Appendices:

Appendix A – Sex Establishment Licensing Policy
Appendix B – Consultation responses.

Documents In Members' Rooms:

None

Background Documents:

None

2010 Sex Establishment Policy

BRIGHTON & HOVE CITY COUNCIL POLICY FOR GRANT, RENEWAL OR TRANSFER OF LICENCES FOR SEX ESTABLISHMENTS, including sex shops, sex cinemas and sex entertainment venues (SEVs)

Introduction

The Council has a duty to promote equality, consider crime and disorder and ensure fair and rational determination of applications. This policy will apply to all applications for sex establishment licences. There are 3 categories of sex establishments:

- Sex shops
- Sex cinemas
- Sexual entertainment venue

Sex establishments are defined and regulated by Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the Act') as amended by the Policing and Crime Act 2009. Brighton & Hove City Council adopted the amended provisions of Schedule 3 of the Act on the 15th July 2010.

Definitions

- **Sex Shops**

A "sex shop" is 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

- **Sex Cinemas**

A "sex cinema" is 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.

- **Sexual Entertainment Venues**

A "sexual entertainment venue" is any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. "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). This covers the following forms of entertainment (though this is not a comprehensive list): Lap dancing; Pole dancing; Table dancing; Strip shows; Peep shows; Live sex shows. There is an exemption for premises which provide such entertainment less frequently than once a month.

General principles – all sex establishments

Each application for a grant, renewal or transfer of a licence will be considered on its individual merits subject to the principles and approach set out in this policy. This policy will be kept under review.

There are mandatory grounds for refusal of a licence under the Act:

1.1 A licence will not be granted:-

- (a) to a person under the age of 18, or
- (b) to a person who is for the time being disqualified or
- (c) to a person, other than a body corporate, who is not resident in the United Kingdom 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 the United Kingdom, or
- (e) to a person who has, within a period of twelve 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.

These are discretionary grounds for refusal. They would only be overridden in exceptional circumstances.

2.1 A licence will not normally be transferred in the following circumstances:-

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason, or
- (b) that if the licence were to be 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 transfer of such a licence if he made the application himself.

2.2 A licence will not normally be granted or renewed in the following circumstances.

- (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 or renewed 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 or renewal of such a licence if he made the application himself.

The authority may determine the number of sex establishments applicable to a locality at any particular time.

2.3 All licences will normally be granted subject to the Council's standard conditions set out at the end of this policy.

3.0 **Sex shops and sex cinemas**

3.1 The Council will take into account:-

- proximity to schools and places of worship;
- proximity to community facilities and public buildings;
- cumulative adverse affects of existing sex establishments in the vicinity;
- proximity to areas with high levels of recorded crime;

- the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made, including where the sex establishment is part of a business, whether there is a separate street entrance to the sex establishment.

In order to discourage a proliferation of sex establishments and to ensure a concentration of sex establishments does not change the character of a neighbourhood to its detriment, licences will not normally be granted:

- in a shopping centre or parade with an existing licensed sex establishment,
- in an area of historic importance, or
- in any street with two or more licensed sex establishments.

- 3.2 A new licence will not normally be granted in the relevant locality if at the time the application is made the number of sex shops and sex cinemas in the relevant locality is equal to or exceeds the number the authority considers appropriate for the locality.

Locality	Appropriate number
St. James Street shopping parades	2
Brighton Station shopping parades	2
Hove shopping parades	1
All other residential, shopping, commercial, industrial land	Nil

- 3.3 Licences will normally only be granted in predominantly commercial streets, without prejudice to considering individual applications on their merits and to the generality of paragraphs 3.0 and 3.3 above.
- 3.4 Applications for occasional events with restricted admissions are excepted or exempted from this general policy. This will allow the relevant committee or sub-committee to consider such applications on their individual merits, if objections are received.
- 3.5 Applications for mail order/internet sales only are excepted or exempted from this general policy, allowing the relevant committee or sub-committee to consider such applications on their individual merits.

3.6 Renewals – all sex establishments

Licences will normally be renewed unless circumstances have changed. The following matters would be taken into account:-

- (a) levels of recorded crime and disorder linked to the licensed premises;
- (b) evidence of a demonstrable impact on neighbours' safety or amenity;
- (c) effectiveness of appropriate measures, such as conditions, to mitigate adverse impacts.

4.0 Sexual Entertainment Venues (SEVs)

The following policy will apply to all applications for SEVs and will only be overridden in exceptional circumstances.

4.1 Licences for SEVs will not be granted within family residential areas, family leisure areas or retail areas where commercial occupiers argue plausibly that SEVs would lower the retail attraction of the area.

- Main shopping streets
- Areas with strong faith communities
- Educational areas
- Areas earmarked for regeneration
- Areas where VisitBrighton and tourism members and officers advise there should be no SEVs
- Areas with history of social difficulties
- Areas with high levels of recorded crime
- Next to a care home which houses vulnerable young people.

4.2 Licences for SEVs will not be granted within sightlines of:

- Schools, youth facilities and colleges
- Public buildings and community facilities

4.3 Except in exceptional circumstances, a new licence for a SEV will not be granted in the relevant locality if at the time the application is made the number of SEVs in the relevant locality is equal to or exceeds the number which the authority considers appropriate for the relevant locality, as follows:

Locality	Appropriate number
Brighton Leisure Centre	3
Hove Commercial Centre	Nil
All other areas within the City	Nil

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4.4 Guidelines

- Preference is given to adult, night time leisure areas, arterial routes with high road traffic but little retail and low footfall.
- Character changes may make formerly suitable areas cease to be so.
- Whether Burlesque is considered SEV is a matter of fact and degree, use of waiver may be considered in appropriate circumstances.
- Dual regulation with the Licensing Act 2003 (licensable activities) will be avoided. Relevant entertainment will not also be considered regulated entertainment.
- Exceptional circumstances might include where an operator can identify an uncatered for market which is not unlawful.

4.5 Policy and tacit authorisation

All applications must be properly determined tacit authorisations further to EU Services Directive will not apply.

All Sex Establishments

Hearing Procedures

New applications will be determined by Licensing Panel (Non-Licensing Act 2003) (Licensing sub-committee). The usual hearing procedures for Licensing Panel 2003 Act will apply, accommodating provisions for objectors set out in paragraphs 9 of Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 concerning the objectors' names and addresses.

Applicant and objectors will have an opportunity to be heard.

A notice of hearing will be sent to all parties.

Renewal applications will normally be granted unless circumstances have changed (see 3.6 above). The Head of Planning and Public Protection has delegated authority to determine renewal applications.

Where there is any possibility that an application may be refused, the applicant must be given the opportunity to be heard by the Licensing Panel.

Any reasons for refusal will be notified orally as soon as possible and in a written statement within 7 days.

BRIGHTON & HOVE COUNCIL
STANDARD LICENCE CONDITIONS MADE BY REGULATION FOR SEX SHOPS
AND SEX CINEMAS

In these conditions reference to the Licensing Authority means the Brighton & Hove Council, and reference to Premises includes Vehicles, Vessels or Stalls.

1. The terms, conditions and restrictions attaching to the licence shall not be varied except by the Licensing Authority after written notice has been given to the Police and the Fire Authority.
2. All due precautions for the safety of the public and employees shall be taken and except with the approval of the Licensing Authority in writing, the Licensee shall retain control over all portions of the premises to which the licence applies.
3. Good order and decent behaviours shall be maintained in the licensed premises during the hours they are open to the public and the premises shall be conducted decently, soberly and in an orderly manner.
4. The Licensee or some responsible adult nominated by him in writing, and whose nomination has been approved in writing by the Council, shall be in charge of and present in the premises at all times when the public are on the premises. The person in charge shall not be engaged in any duties which will prevent him from exercising general supervision. Nominations in writing, submitted to the Council for approval, shall include a photograph of the person to be nominated.
5. All parts of the premises to which the public are admitted and all passages, courts, corridors and stairways to which the public have access and which lead to the outside of the premises must, in the absence of adequate daylight, be illuminated by the general lighting when the public are present. Where artificial lighting is supplied for stairs, ramps, or passages external to the premises and is operated by a switch adjacent to an exit door, it need not be in continuous operation but it shall be maintained readily available for use. The general lighting shall be provided by electricity.
6. The Licensee shall comply with any reasonable fire preventative and safety measures that may be required of him by the East Sussex Fire & Rescue Authority or Licensing Authority.

7. All parts of the licensed premises shall be open to free ingress and inspection by:
 - (i) Duly authorised officers of the Licensing Authority;
 - (ii) Police Officers;
 - (iii) Officers of the Fire Authority.
8. The Licence, or a copy thereof, shall be exhibited on the premises and shall be available for inspection by any of the persons mentioned in condition 7 above.
9. Noise such as to cause persons in the neighbourhood to be unreasonably disturbed shall not be permitted to emanate from the premises.
10. The licensee shall at all times ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.
11. The Licensee shall take all reasonable steps to ensure that persons entering or leaving the licensed premises and using adjacent car parks and highways do not conduct themselves in a manner so as to cause annoyance to residents and persons passing by.
12. The days and times the licensed premises are open to the public and a notice indicating those premises are open or closed may be displayed upon the door leading from the street or a public place into those premises and in letters and figures not exceeding 15 mm in height and 5 mm in thickness but on no other part of the premises. The door to which this paragraph applies shall be fitted with an effective self-closing device and remain closed at all times other than when a person is passing through it.
13. The provisions of the Indecent Displays (Control) Act 1981 shall be complied with at all times, and the warning notice defined in Section 6 of the Act of 1981 shall not be displayed on the door leading from a street or public place into the licensed premises but instead shall be displayed on a door or screen located behind or beyond it.
14. Nothing shall be permitted to be on view or visible to members of the general public from the licensed premises which would in any way indicate that the premises are a sex establishment, or that the goods, merchandise or services available therein are those defined in Schedule 3 to the above Act of 1982 as "Sex

Shop", "Sex Article", or "Sex Cinema" and the terms of this condition shall apply to any land premises giving access to the licensed premises and shall refer to the name or title of the premises, any advertisement or notice visible outside the premises and to any sound broadcast which can be heard outside the premises.

15. Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Shop by means of personal solicitation outside or in the vicinity of the premises.
16. No amusement or gaming machines of any kind, whether for prizes or otherwise, shall be kept or used upon the licensed premises at any time.
17. No person who is apparently under the age of eighteen years, or who is known to any person connected with the licensee's business and present on the licensed premises to be under that age, shall be admitted to or allowed to remain on those premises.
18. The Licensing Authority reserve the power after the grant or renewal or transfer of this licence at any time to dispense with or modify or relax any of these terms, conditions and restrictions, and to make such additional terms, conditions and restrictions as they may deem requisite to meet the circumstances of any particular case.
19. The Licence may be revoked by the Licensing Authority if at any time the holder is convicted of any offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Prescribed standard conditions made by regulations for SEVs

1. No persons under 18 will be admitted to the premises. The premises will operate a 'Challenge 25' scheme, whereby anyone who appears to be aged 25 or younger is asked for photographic ID to prove their age. The only ID that will be accepted are passports, a driving licence with a photograph or Portman Group proof of age cards bearing the 'PASS' mark hologram. The above list of acceptable proof of age items may be extended to other forms of ID on the future with advance written agreement of the Police without the need to review the actual licence. The Challenge 25 rule and the stipulated forms

- of acceptable age identification will be clearly stated both on the premises website and on all membership applications, booking forms, customer contractual documents and promotional literature etc. In addition the licensee will provide a photographic identification system for all entrants to the premises. Recordings to be provided to the police at the request.
2. No under 18's events will be hosted anywhere on the premises at any time.
 3. Whilst striptease entertainment is taking place, no customer under 18 shall be on the premises and clear notices shall be displayed at the entrance to the premises in a prominent position so that it can easily be read by persons entering the premises in the following terms:

NO PERSONS UNDER 18 TO BE ADMITTED
ENTERTAINMENT WITHIN THESE PREMISES INVOLVES
A FORM OF NUDITY
IF YOU ARE LIKELY TO BE OFFENDED, PLEASE DO NOT ENTER

4. No intoxicating liquor shall be supplied for consumption off the premises
5. The only form of relevant entertainment which is approved and may be provided at the premises is striptease entertainment in the form of tableside and pole dancing by club dancers only.
6. The approved striptease entertainment shall be given only by the performers and entertainers and no audience and no audience participation shall be permitted
7. There shall be no physical contact between the customer and the dancer, with the exception of shaking hands with a customer and/or leading a customer by the hand from a seated area to a booth for a private dance. In addition and with the exception of the above, there shall be no deliberate physical contact between the customer and the dancer, either immediately before, during or after a dance.
8. Dancers shall only perform on the stage area or at a tableside to seated customers. All booths will have adequate lighting to ensure the safety of the dancer and to ensure that both the member / guest / audience and the performer are adhering to the Club rules at all times. A SIA licensed door supervisor or designated members of staff will have a full and unrestricted view of any dancer performing in a booth at all times.
9. There shall be no physical contact between dancers whilst performing
10. Dancers may never give out personal information, including telephone numbers, email addresses or other contact details to audience members. Dancers may never accept any telephone

number , addresses, business card or any other information from any customer.

11. The private booths will be designed in such a way that there can be no curtain or other visual barrier that can be pulled across the entrance, this concealing activities inside the booth area. The booths will be designed in such a way that the door supervisors / security staff can see into the booths to ensure the safety of the dancers performing inside and to ensure that the club rules are being strictly adhered to at all times.
12. All dancers / performers will be aged over 18 years of age and legally entitled to work in the UK before they perform at the Club. Copies of all dancers files will be made available to the Police Licensing for inspection upon request.
13. The licence holder shall ensure no dancers are trafficked, exploited or controlled for another's gain.
14. Where possible all dancers will be escorted from the premises at the end of each evening to their transport (eg taxis) to ensure their personal safety and security
15. Members and their guests may not at any time take photographs, film, video or mobile phone photographs or footage of performers.
16. The Licensee will ensure that there is no display outside the premises of photographs or other images that indicate or suggest that striptease or similar entertainment takes place on the premises.
17. Any promotional website for the premises must comply with A.S.A regulations and will not display photographs or other images of topless or nude performers, or show photographs or other images that may reasonably be construed as offensive. The website will include a clear requirement stating the challenge 25 proof of age.
18. Promotional literature. Any promotional literature circulated outside of the premises will not display photographs or other images of topless or nude performers, or show photographs or other images or words that may reasonably be construed as offensive. All promotional literature will include clear statements as to the requirements for challenge 25 proof of age.

Responses received within consultation period

	From	Action
<p>The Pussycat Club was the first lap-dancing club to be established in Brighton & Hove approximately 13 years ago. The Club was originally located at premises in Church Road, Hove but relocated to city centre premises at Grand Parade, Brighton approximately 4/5 years ago. The Club remains in the day to day control of the founder, Kenneth McGrath. The Club is fundamentally different from other lap-dancing premises which opened later in our city to the extent that it remains a private members club, with a 48 hour waiting period for membership. Essentially, this prevents impulse entry and generally provides for good customer behaviour within the premises, as each new member provides i/d and makes an application providing full details of residence and employment. We believe that our private club status continues to achieve this and will be clearly evidenced by the lack of crime and public disorder at our premises if compared to the other local premises which are open to the general public. It is our view that we have achieved an excellent local reputation and operate our premises in harmony with our neighbours, the local authority & police authority as well as the general community.</p> <p>I should be grateful if you would consider my comments as follows;</p> <ol style="list-style-type: none"> 1. I submit to you that because of our private club status, we utilise significantly fewer local (scarce) resources than those premises which are open to the general public and that this ought to be reflected significantly in any fee structure you apply to the new licensing arrangements. 2. I further submit to you that any fee structure you apply to the new licensing arrangements is not a fixed fee structure but scaled according to either the capacity of each premises or 	<p>Kenneth McGrath, Pussycat Club</p>	<p>No comment – fees dealt with elsewhere.</p> <p>Capacities are not always set by</p>

<p>the rateable value. To impose a fixed fee structure would be to effectively penalise the smaller premises with lower capacity, which in this case are our premises (and of course we argue anyway that we also use the fewest resources).</p> <p>3. With regard to the proposed condition 9 that “there shall be no physical contact between dancers whilst performing” I would respectfully ask that you reconsider this with a view to disposing of the condition entirely. Firstly, in my experience I have never seen or known any inappropriate contact between dancers, who are generally professional adults performing their business activity for customers and whilst regulation between dancers and customers is essential, I cannot see any requirement for regulation between one female dancer and another female dancer. Secondly, it is an industry norm to provide two girl dances, particularly for stag groups and in our premises we have a flagship dance by two girls who dress in wedding dresses to perform dance entertainment for stag groups. Invariably there is an element of contact between the girls which appears erotic but is appropriate. For example, our dancers remove each others dresses and bra straps, etc as part of the performance and this is impossible without some form of contact. Finally, it is important that conditions are accepted those subject to the regulation as reasonable and are enforceable and I do not believe this is either. I think it could be perceived to be a bit silly to regulate that one professional dancer may not remove the stocking of another professional dancer, because there is contact, as part of a performance.</p> <p>4. With regard to the proposed condition 8 that “an SIA licensed door supervisor shall have a full and unrestricted view of dances”, I respectfully suggest that you consider rephrasing this as “an SIA licensed door supervisor, licensee or manager or other designated member of staff” . At our premises we monitor dances using an excellent CCTV system which is effective as one individual can easily monitor up to six dances simultaneously. Presumably it is not your intention (nor would it be possible) that one individual physically monitors each dance and you may wish to consider incorporating the use of CCTV to clarify the operational aspect of this condition.</p>		<p>licence (dependent on fire risk assessment).</p> <p>Rejected on performer safety grounds.</p> <p>Agreed - add “or designated members of staff”</p>
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<p>The proposed conditions do not contemplate at all the flyering activities of the various clubs and there has been some conflict between the individuals (usually dancers) who carry out this activity, which is a highly competitive one. Clearly it is most undesirable that public arguments and disorder take place between individuals who are competing to hand out flyers. Invariably these arguments start because of activity by a competitor in the immediate vicinity of another's premises. I think it would be a simple matter to prohibit flyering activity by any lap-dancing premises within say 50 yards of the frontage of any other premises and this should prevent territorial confrontations.</p> <p>I would be grateful if you would acknowledge receipt of my comments. I would be delighted to provide any further information you require if you have any queries.</p>		<p>Printed material distribution is a separate licensing regime.</p>
<p>Proposed rewording of conditions at annex 3</p> <p>Remove condition 1</p> <p>Amend condition 2 to read: There will at all trading times be a minimum of two SIA licensed door supervisors at the main entrance to the premises at ground level. There will be a further SIA licensed supervisor for the first fifty customers on each floor whilst that floor is in operation. Additional SIA licensed supervisors will be provided on a ratio of 1 to 50 whilst that floor is in operation, up to but not exceeding the maximum permitted occupancy of the premises.</p> <p>Remove condition 3, 4 and 5.</p> <p>Amend condition 6. A daily record shall be maintained containing the full name and licence number of each SIA approved supervisor on duty.</p> <p>Remove condition 7, 8 and 9</p> <p>Amend condition 17 to read: the number of persons on the premises shall not exceed 240 inclusive of staff and performers.</p> <p>Remove condition 18, 19, 20, 21 and 22.</p>	<p>Les Pierce Platinum Lace</p>	<p>Conditions relating to performer safety are retained. However, condition 8 is amended as above.</p> <p>Conditions 17 and 18 relating to marketing are retained.</p> <p>Conditions 19-22 do not exist and may relate to individual premises licences.</p>

<p>Amend condition 23: Remove last sentence. Unworkable, causes conflict. Remove condition 26 and 27.</p> <p>Amend condition 31: Dancers shall only perform on the stage or at a supervised seated area designated for dancing. All booths will have adequate lighting to ensure the safety of the dancer and to ensure that both the customer and the performer are adhering to the club rules at all times. A SIA licensed supervisor will have a full and unrestricted view of any dancer performing in a booth at all times.</p> <p>Amend condition 33 to conclude: unless such information is handed directly to the duty manager for the sole purpose of the business.</p> <p>Amend condition 37 to start: Customers may not.....</p>		<p>)))) Not standard) conditions))))</p>
<p>I have some suggested minor additions to the area where should not be - this could be repeated for SEV's. I think that they are proportionate and reasonable - they relate to vulnerable groups. Would love to hear a solicitor argue that it is appropriate for a strip club next to a care home which houses vulnerable young people!</p>	<p>Simon Court, Senior Solicitor, Housing and Litigation. BHCC</p>	<p>Included</p>
<p>We have taken the time to go through this and it answers every question I considered prior to reading it.</p> <p>Nothing to add from the police side with thanks</p>	<p>Chief Inspector Simon Nelson Operations Team Brighton and Hove Division Sussex Police</p>	<p>N/A</p>
<p>Letter 20 August 2010. Would like to take points into consideration when setting new licence fees.</p> <ul style="list-style-type: none"> • EU Services Directive which took effect from end of 2009 clearly states that the processes must be non-discriminatory, justified, proportionate, clear, objective, made in advance, transparent and accessible. • If it is non-discriminatory how can it be justified that other establishments that have 	<p>Nice'N'Naughty</p>	<p>Taken into account</p> <p>Set by legislation</p>

<p>the same restrictions as sex establishments, age restrictions, hours and the necessity for annual inspections be charged to little in comparison when they are all set at the local council's discretion. For example, adult gaming and bingo halls are both in the region of £500?</p> <ul style="list-style-type: none"> • Worthing which is just down the road from Brighton has much lower fees. • We cannot be penalised for the enforcement of others. <p>I have repeatedly asked for a breakdown of the fees, and to date have not received this. I have, as you are aware been in touch with your councillors trying to establish an understanding of how this fee can be seen as fair. I would be only too pleased to forward to you any further information if you require it, or, to discuss this further with you.</p> <p>I look forward to hearing from you and would like to thank you for this opportunity to make our views heard and do hope that you will take them into consideration and the outcome will be favourable.</p>		<p>within guide figures</p> <p>N/A</p> <p>Risk based enforcement</p>
<p>* We welcome the additional controls and new powers this policy will provide, giving communities a greater say into if and where a sex establishment can be allowed to operate.</p> <p>* We are concerned by the complexity this dual licensing scheme will introduce into the licensing regime. As we understand it sex establishments will need to still have a 2003 Licensing Act licence as well as a licence under the 2010 Policing and Crime Act. They will need to renew both licenses annually. We have concerns about what this will mean for monitoring, enforcement and management. This may also result in an unfair fee burdens on some premises.</p> <p>* In particular we believe that sex shops should not be treated in the same</p>	<p>Cllr Jason Kitcat Green City Councillor, Regency Ward</p>	<p>Dual licensing is dealt with in the policy.</p>

way as 'sex entertainment venues' such as lap dancing clubs. They do not have the same risks nor potential for crime and disorder.

* We believe that sex shops should be charged much lower licence fees than at present for both the 2003 Act and 2010 Act licenses.

* Further to the costs of licenses: Thought should be given as to how, in reducing the costs and barriers to licensing, those shops not currently licensed as sex shops, might be encouraged to participate in the licensing regime given the grey area around what constitutes a sex shop and what doesn't. This could help create a level-playing field for all shops selling sex-related articles. With this in mind, flexibility about the number of permitted sex shops should be considered.

* For the purposes of equalities, appropriate wording should be used to allow exceptions to be made so that new venues can be approved if they serve a part of the city's community not currently served by existing venues.

Dealt with elsewhere
(Licence Fees report)

Agreed and included in policy.

