

# Licensing and Regulatory Sub- Committee



<b>Title</b>	<b>Agenda</b>
<b>Date</b>	<b>Tuesday 6 September 2022</b>
<b>Time</b>	<b>10.00 am (Briefing for Members at 9.30 am)</b>
<b>Venue</b>	<b>Conference Chamber West West Suffolk House</b> Western Way Bury St Edmunds IP33 3YU
<b>Full Members</b>	Carol Bull Roger Dicker Pat Hanlon
<b>Substitutes</b>	Patrick Chung
<b>Membership is drawn from the full membership of the Licensing and Regulatory Committee and is politically balanced as far as is practicable.</b>	
<b>Interests – declaration and restriction on participation</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
<b>Quorum</b>	Three Members
<b>Committee administrator</b>	<b>Helen Hardinge</b> Democratic Services Officer <b>Telephone</b> 01638 719363 <b>Email</b> <a href="mailto:helen.hardinge@westsuffolk.gov.uk">helen.hardinge@westsuffolk.gov.uk</a>

## Procedure for the conduct of sex establishment licensing hearings

### Procedure

1. The Legal Advisor should ask whether the applicant, if unaccompanied, was aware that they could be represented.
2. The Legal Advisor should introduce those present at the meeting and state their position if Officers.
3. The Chair should then request the appropriate Officer of the Council to outline the matter under consideration.
4. The applicant should then present their opening submission.
5. Members of the sub-committee and council officers will then have the opportunity to question the applicant regarding their opening submission.
6. Anyone who has submitted a representation would then be invited to address the Sub-Committee in relation to the relevant parts of their previously submitted representation. This may be subject to a time limit, which will be advised in advance of the hearing. Where a party was unable to attend by virtue of it being held virtually, the Chair shall request the Democratic Services Officer to read any written submissions received in place of an oral statement.  
  
**N.B.** This will occur only if the Chair has exercised his/her discretion to allow objectors to address the Sub-Committee. As case law and legislation restricts objectors addressing the Sub-Committee, the Sub-Committee and the applicant are not permitted to ask questions of the objectors.
7. The applicant should then present their main submission which should include their response to objections, and call any necessary witnesses.
8. Members of the sub-committee and council officers will then have the opportunity to question the applicant regarding their main submission.
9. The applicant will then have the opportunity to sum up and generally have right of final reply.
10. The Sub-Committee will then retire to obtain legal advice (see note i). The Legal Officer will retire with them.
11. The Sub-Committee will, unless an adjournment or deferral is necessary, return and the Decision will be read out.

#### NOTES:

Note i – Exclusion of the Public Procedure: - Paragraph 5 of Part 1 of Schedule 12A Local Government Act 1972, as amended. (Chair will call for a proposal to exclude press and public, followed by a seconder and vote will be taken.)

## **General**

1. The case for any party should only be put in the presence of the others, unless one party voluntarily chooses to leave the meeting. It is vital that all members of the sub-committee present at the opening of the meeting remain present throughout the hearing; any member arriving after consideration of the item has commenced should not take part in deliberations.
2. Members of the sub-committee should, during the hearing, confine themselves to questions and not embark upon discussion of the merits of the application.
3. Applications for adjournments should be granted if refusal would deny the applicant a fair hearing.
4. The Chair may after consultation with the solicitor present at the meeting vary the provisions of this Code of Conduct if deemed appropriate in the particular circumstances of an item of business being considered by the Sub-Committee.
5. The Chair's ruling, in relation to this code and the conduct of the hearing, is final.

## Agenda

### Part 1 – public

#### Procedural matters

**1. Election of Chair**

To seek nominations for the election of Chair for this sub-committee meeting.

**2. Apologies for absence**

**3. Substitutes**

Any member who is substituting for another member should so indicate, together with the name of the relevant absent member.

**4. Declarations of interest**

Members are reminded of their responsibility to declare any pecuniary or local non pecuniary interest which they have in any item of business on the agenda, **no later than when that item is reached** and, when appropriate, to leave the meeting prior to discussion and voting on the item.

The attached hearing procedure will be adopted in considering the undermentioned item:

**5. Application for the Renewal of a Sex Establishment Licence (Sexual Entertainment Venue - Heaven Awaits Ltd)**

**1 - 66**

Report No: **LSC/WS/22/010**



# Application for the Renewal of a Sex Establishment Licence (Sexual Entertainment Venue – Heaven Awaits Ltd)

<b>Report No:</b>	<b>LSC/WS/22/010</b>	
<b>Report to and date:</b>	<b>Licensing &amp; Regulatory Sub-Committee</b>	6 September 2022
<b>Cabinet Member:</b>	Councillor Andy Drummond Portfolio Holder for Regulatory and Environment <b>Tel:</b> 01638 751411 <b>Email:</b> <a href="mailto:andy.drummond@westsuffolk.gov.uk">andy.drummond@westsuffolk.gov.uk</a>	
<b>Lead officer:</b>	Christian Moore Food, Safety and Licensing Manager <b>Tel:</b> 01284 757042 <b>Email:</b> <a href="mailto:christian.moore@westsuffolk.gov.uk">christian.moore@westsuffolk.gov.uk</a>	

**Wards impacted:** **Newmarket East**

**Recommendation:** **It is recommended that, having considered all relevant facts, with due regard to the application, the representations received and the Council's Sex Establishment Licensing Policy, to resolve either to:**

- (1) Grant the renewal of the licence as applied for incorporating the standard conditions;**
- OR**
- (2) Refuse the application in its entirety.**

## 1. Background / Context

1.1 An application was received on 7 July 2022, from Newmarket Entertainment Ltd in respect of Heaven, 109 High Street, Newmarket, Suffolk CB8 8JH. The application seeks to renew the Sex Establishment Licence (Sexual Entertainment Venue). The premises has been trading since April 2006 and has held a Sexual Entertainment Venue (SEV) since 1 October 2012.

1.2 A copy of the application can be found at **Appendix A**. The operating schedule, plan and club rules are unchanged. The premises has removed all signage following reopening after the pandemic.

1.3 The licence proposed would allow the use as a sexual entertainment venue during the following hours:

Monday to Wednesday:	7:00pm to 02:00am
Thursday to Saturday:	7:00pm to 03:20am
Sunday:	7:00pm to 03.00am

These times are within those currently allowed under the Licensing Act 2003 premises licence.

1.4 The Council adopted the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA) in relation to the licensing of sex establishments, as amended by Section 27 Policing and Crime Act 2009. The Policing and Crime Act 2009 amended the 1982 Act, in so far as it related to the licensing of sex establishments, by adding the new category of 'sexual entertainment venue'.

1.5 The business currently holds a premises licence issued under the provisions of the Licensing Act 2003, which allows the sale of alcohol and regulated entertainment. The hours being applied for are within those of the existing premises licence.

1.6 Any SEV licence granted will be held for a period of one year and be renewable annually.

1.7 The Cumulative Impact policy, mentioned in the objection from Newmarket Town Council, only relates to Licensing Act applications not this renewal under the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009.

1.8 The Council's current Sex Establishment Licensing Policy was revised and readopted on the 14 February 2017 and a copy can be found in **Appendix B**. The policy sets out the general principles and criteria the Council would normally apply when making decisions on applications, providing the framework for applications, objections and the regulation of such premises.

1.9 The Council has a discretion to refuse to grant or renew licences for sex establishments on the grounds that the licence would be inappropriate having regard to the character of the locality or the use of premises in the vicinity.

1.10 The Council has not imposed a limit on the number of premises that may be licensed in any area, nor identified any exclusion zones for the purpose of applying for a sex establishment licence.

1.11 Each application will be treated on its own merits.

## **2. Implications arising from the proposal**

### **2.1 Legal Compliance**

2.1.1 The Act provides the ability for conditions to be attached to a licence. Standard conditions have been agreed as part of the Council's Sex Establishment Licensing Policy.

2.1.2 Where members feel necessary, they may also attach conditions to answer any concerns that have been raised.

2.1.3 Two representations have been received following the advertisement and consultation of this application. These representations can be found in **Appendices C and D**. Where the consent of the writer has not been given or is absent the names and address details have been redacted.

2.1.4 No other representations for or against the application have been received.

2.1.5 A licence is to be regarded as the property of the applicant. However, their right to the use of that property must also be balanced against any other public interests in this matter.

2.1.6 When making their decision Members must give consideration to the rights that applicants have under the European Convention on Human Rights. Article 1 (entitlement of every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression) are particular rights that may be relevant.

2.1.7 Members should consider whether interference with these rights is necessary and proportionate for the prevention of crime or disorder, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, whether interference can be justified in the general interest.

2.1.8 The applicant has correctly advertised the application by means of a public notice in a locally circulating newspaper and also through the posting of a notice in a convenient to read location at the premises.

2.1.9 The application has been consulted upon in accordance with paragraph 15.2 of the Council's Sex Establishment Licensing Policy.

2.1.10 There is no right of appeal against a refusal to grant a licence for the reasons identified in Paragraph viii or ix in section 2.1.13 below. Refusal on any other grounds can be appealed to the Magistrates Court within 21 days. A decision to refuse a licence must be relevant to one or more of the above grounds and the decision must be necessary and proportionate.

- 2.1.11 Given the right of appeal against the decision to the Magistrates' Court, and potentially to the Crown Court, the costs of any such proceedings could be awarded against the Council if any appeals were upheld. It is felt that this is unlikely if the Council's decision was made in good faith and could be justified under our policy. There are no other cost implications.
- 2.1.12 In considering this duty the Members should have due regard to the submissions made by the applicant and any objectors, the Local Government (Miscellaneous Provisions) Act 1982, and the Council's own Sex Establishment Licensing Policy.
- 2.1.13 Paragraph 12 of Schedule 3 of the 1982 Act sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence must not be granted:
- i) to a person under the age of 18;
  - ii) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
  - iii) to a person, other than a body corporate, who is not resident in a European Economic Area (EEA) State, or was not so resident throughout the period of six months immediately preceding the date when the application was made;
  - iv) to a body corporate which is not incorporated in an EEA State;
  - v) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the licensed premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal;
  - vi) if the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - vii) if the licence were to be granted, renewed or transferred, the business to which it related would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
  - viii) if the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to, or exceeds the number which the authority consider is appropriate for that locality;
  - ix) that the grant or renewal of the licence would be inappropriate having regard:
    - to the character of the relevant locality; or
    - to the use to which any premises in the vicinity are put; or
    - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 2.1.14 Appropriate checks have been made and refusal on the grounds listed above cannot be used, other than those that relate to Paragraph 2.1.13(ix); it is for Members to consider if the application is consistent with the policy under this criteria.



### **3. Appendices referenced in this report**

- 3.1 Appendix A – Renewal Application
- 3.2 Appendix B – West Suffolk Council Sex Establishment Licensing Policy
- 3.3 Appendix C – Representation from Newmarket Town Council
- 3.4 Appendix D – Representation from third party

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# Sex establishment licence

## Part A: applicant information

Schedule 3 of the Local Government Miscellaneous Provisions Act 1982

Before completing this application, please read ALL guidance notes at the end of the form. If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. It is recommended that you keep a copy of the completed form for your records.

Please note that the licensing authority or police may make enquiries independently to verify/validate any information submitted as part of this application.

<b>Application type</b> tick box(es) as appropriate <input checked="" type="checkbox"/>	
<input type="checkbox"/> New <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Transfer <input type="checkbox"/> Variation	
<b>Part 1 - Premises Details</b>	
Premises address:	Heaven, 109 High Street, Suffolk, CB8 8JH
<b>Licence Details (for renewal applications)</b>	
Licence Number:	SE0012
Date of Expiry:	09 / 08 / 2022
<b>Part 2 – Applicant Details</b>	
Is the applicant:	<input type="checkbox"/> An individual <input checked="" type="checkbox"/> A company or other corporate body <input type="checkbox"/> A partnership or other unincorporated body
<b>A Individual applicant details</b>	
Title:	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other_____
Surname:	
Forenames:	
Date of birth: (must be aged 18 or over)	
Place of birth: (Town/Country)	
National Insurance Number:	
Current residential address, including postcode:	
Telephone number (home):	
Telephone number (mobile):	

Email:	
Are you ordinarily resident in the UK?	<input type="checkbox"/> Yes <input type="checkbox"/> No If No please state where:
Have you any restrictions on your eligibility to reside/work in the UK?	
Title:	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other_____
Surname:	
Forenames:	
Date of birth: (must be aged 18 or over)	
Place of birth: (Town/Country)	
National Insurance Number:	
Current residential address, including postcode:	
Telephone number (home):	
Telephone number (mobile):	
Email:	
Are you ordinarily resident in the UK?	<input type="checkbox"/> Yes <input type="checkbox"/> No If No please state where:
Have you any restrictions on your eligibility to reside/work in the UK?	
<b>B Other applicants (such as a registered company or unincorporated association) Please provide name and registered address of applicant in full. Where appropriate please give any registered number and names/private addresses of ALL directors/ partners:</b>	
Name:	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other_____
Registered or principal office address including postcode:	Newmarket Entertainment Ltd 109 High Street, Newmarket, Suffolk, CB8 8JH
Registered company number:	09103285
Description of applicant (eg partnership, company):	Limited Company
Is this company incorporated in the UK?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No please state where:
Telephone number:	0800 77 23 109
Email:	gokul@heavenstripclub.com

**Names and private addresses of ALL company directors or partners:**

(1) Director/partner: Full name (including title)  Mr Gokul Swami	Private address (including postcode):
(2) Director/partner: Full name (including title)	Private address (including postcode):
(3) Director/partner: Full name (including title)	Private address (including postcode):

**C Licensing history and other relevant information:  
Has any person or the corporate or unincorporated body referred to in this application:**

Been disqualified from holding a licence for a sex establishment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Been refused the grant/renewal/transfer of licence for a sex establishment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Been the holder of a sex establishment licence when that licence has been revoked?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

If YES to any of the above please provide details, including relevant names, dates and locations:

Have you any convictions recorded against you? Or if a body corporate or unincorporated body that body or any of its directors or other persons responsible for its management? If so please state

Date of conviction	Offence	Sentence (include any suspended)

Note: (i) All convictions must be disclosed  
(ii) Spent convictions, as defined in the table below should not be included

Sentence	Becomes spent after
Imprisonment of between 6 months and 30 months	10 years
Imprisonment of up to 6 months	7 years
Borstal training	7 years
A fine or other sentence not otherwise covered in this table	5 years

Absolute discharge	6 months
Probation order, conditional discharge or bind over	1 year (or until order expires, whichever is longer)
Detention Centre Order	3 years
Remand home, attendance or approved school order	The period of the order and a further year after the order expires
Hospital order under the Mental Health Act	The period of the order and a further 2 years after it expires
Cashiering, discharge with ignominy or dismissal with disgrace from the Armed Forces	10 years
Dismissal from Armed Forces	7 years
Detention	5 years
<p>Note: (i) A sentence of more than 2.5 years imprisonment can never become unspent.  (ii) If you were under 17 years of age on the date of conviction, please halve the period shown in the right hand column.</p>	
<p><b>Is the business for the benefit (whether solely or partly) of any third-party not already specified within this application?</b>      <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No  (If YES please give further details below including name, address and position):</p>	
<p><b>Please provide details of any experience or business/employment history relevant to the operation of a sex establishment gained by any person in connection with this application.</b> For example please specify whether any person is a member of any trade association/organisation (ie the Lap Dancing Association) or has operated or continues to operate a sex establishment (state type if applicable):</p> <p>The Director of Newmarket Entertainment Ltd has been responsible for the running of a Sex Establishment since 2013 (Climax in Colchester, Essex) as well as operating Heaven since 2017. Because of this extensive experience, the Director is fully aware of the regulations associated with running a Sex Establishment, especially the impact this has on the local community and the necessity to work closely with the local authorities and public to ensure the establishment works within the rules and regulations required.</p>	
<p><b>Part 3 – Declaration for Part A</b> tick box(es) as appropriate</p>	
<p><b>I/we</b> – insert name(s) of applicant(s):</p> <p style="text-align: center;">Newmarket Entertainment Ltd</p>	
Enclose the relevant fee (cheques made payable to West Suffolk Council)	<input checked="" type="checkbox"/>
Enclose evidence of identity containing a photograph in respect of each individual applicant/partner/director, as applicable	<input checked="" type="checkbox"/>
For each individual/director enclose a basic level criminal record disclosure certificate or equivalent (this should be dated no older that one calendar month) and also enclose a declaration of convictions, cautions etc for each person as applicable (see guidance note 11)	<input checked="" type="checkbox"/>
Understand that if the above requirements have not been satisfactorily complied with my application cannot proceed and may be rejected	<input checked="" type="checkbox"/>
Understand that the information given may be used in conjunction with other authorities for the prevention and detection of fraud.	<input checked="" type="checkbox"/>

Confirm that the information supplied in this application is true to the best of my/our knowledge and belief.



**It is an offence for any person to make a false statement, or a statement which he/she does not believe to be true, in or in connection with this application. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding £20,000.**

**Signatures**

Signature of applicant(s) or applicant(s) solicitor or other duly authorised agent. If signing on behalf of the applicant please state in what capacity:

1. Signature:.....  
Name:..... Gokul Swami  
  
Capacity:..... Director.....

2. Signature:.....  
Name:.....  
  
Capacity:.....

3. Signature:.....  
Name:.....  
  
Capacity:.....

Date: 07 / 07 / 2022

Contact name: Gokul Swami

Contact postal address including post code:

Telephone number:

Email: gokul@heavenstripclub.com

**Part B: premises/operational information**

Schedule 3 of the Local Government Miscellaneous Provisions Act 1982

Before completing this application please read ALL guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. It is recommended that you keep a copy of the completed form for your records.

Please note that the licensing authority or police may make enquiries independently to verify/validate any information submitted as part of this application.

I/We Newmarket Entertainment Ltd (insert name(s) of applicant(s) – please read guidance note 1)	
<b>Application type</b> tick box(es) as appropriate <input checked="" type="checkbox"/>	
<input type="checkbox"/> Grant <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Transfer <input type="checkbox"/> Variation	
<b>Part 1 - Premises Details</b>	
Postal address (including post code):	Heaven, 109 High Street, Newmarket, Suffolk, CB8 8JH
Telephone number:	0800 77 23 109

**(A) Description of Trading Activity**

<b>The premises will trade as</b> tick box(es) as appropriate <input checked="" type="checkbox"/>						
<input type="checkbox"/> a sex cinema	<input type="checkbox"/> a sex shop	<input checked="" type="checkbox"/> a sex entertainment venue				
The premises is proposed to trade on the following days and between the following times:						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
From: 7pm	From: 7pm	From: 7pm	From: 7pm	From: 7pm	From: 7pm	From: 7pm
To: 2am	To: 2am	To: 2am	To: 3:20am	To: 3:20am	To: 3:20am	To: 3am

**(B) Operation of the venue and other relevant information**

<b>Does the premises have the correct planning consent for the use intended?</b> If unsure check with the Planning Authority	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Does the premises currently have a premises licence or club</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No



<b>premises certificate under the Licensing Act 2003?</b>	
<b>If the premises does hold a Licensing Act 2003 authorisation please give the licence or certificate number</b>	
<p><b>Please summarise the nature, style and activities of your proposed sex establishment.</b></p> <p>For example, give detail on the type of activities/entertainments, clientele, frequency of performances, number of staff and performers, capacity, type of articles sold etc.</p> <p>Heaven operates as a Lap Dancing venue in the basement of 109 High Street, Newmarket, Suffolk, CB8 8JH. The typical clientele of the venue are middle aged males who are very well behaved and who enjoy an evening with friends or colleagues in a quiet mature environment. Heaven typically operates with between 5 and 15 dancers during the evening. The total number of bar staff working at Heaven at any one time is 9. The capacity of the venue is 110. The only articles sold are dances by the dancers which are purchased by the customer. No other articles are sold.</p>	
<p><b>What measures/steps do you propose to take to ensure that your sex establishment operates in a suitable and appropriate manner in the locality you propose?</b></p> <p>For example you may wish to detail your arrangements for door supervision (including numbers/frequency/timings), management (including management structure), customer rules, welfare of performers, membership, dispersal, external appearance of the venue, advertising, training for staff, CCTV, notices and signage .....</p> <p>Heaven operates with a strict policy for the safety of both customers and staff. Heaven operates with a minimum of 2 door staff increasing to 3 or 4 on anticipated busy evenings (i.e. during the race season). All door staff are SIA approved and present within the venue and outside to greet the customers and explain the rules of the venue. They are on duty approx 20 minutes prior and after the venue is open. There is a management structure in place to also deal with any queries from the customers with regard to the rules and the welfare of the dancers. The structure is made up as follows:</p> <p>General Manager, Floor Manager (responsible for looking after the dancers), Bar Manager and general bar staff.</p> <p>When the customers leave the venue they are asked to leave in a quiet manner as to not disturb the local residents within the area.</p> <p><del>Apart from the sign above the entrance, all external signage is minimal and none of the signage contains imagery.</del> All signage removed since reopening after pandemic.</p> <p>The venue has extensive HD CCTV and all recording are stored for a minimum 31 days.</p>	
<b>Do you agree to conditions being attached to your licence (if granted) that are consistent with the steps/measures you have proposed above?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please provide a plan and a schematic to show the proposed external appearance of the venue</b> (Guidance note 12)	
<b>Part 3 – Declaration for Part B (please tick to confirm yes)</b>	
<b>I/we – insert name(s) of applicant(s)</b>	
Newmarket Entertainment Ltd	
Enclose a plan of the premises and also a diagram of the premises frontage (this should also indicate window dressing/colour schemes/signage etc) (see guidance	<input checked="" type="checkbox"/>

note 12)	
Enclose any policies, rules, procedures or other supporting documentary information in connection with this application (On renewal only if changes have been made)	<input type="checkbox"/>
Understand that if the above requirements have not been satisfactorily complied with my application cannot proceed and may be rejected	<input checked="" type="checkbox"/>
Understand that the information given may be used in conjunction with other authorities for the prevention and detection of fraud.	<input checked="" type="checkbox"/>
Confirm that the information supplied in this application is true to the best of my/our knowledge and belief.	<input checked="" type="checkbox"/>

**It is an offence for any person to make a false statement, or a statement which he/she does not believe to be true, in or in connection with this application. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding £20,000.**

**Signatures**

Signature of applicant(s) or applicant(s) solicitor or other duly authorised agent. If signing on behalf of the applicant please state in what capacity:

.....Name.....Gokul Swami  
Capacity..... Director

.....Name.....  
Capacity.....

.....Name.....  
Capacity.....

Date	07 / 07 / 2022
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**Privacy Notice**

West Suffolk Council is a Data Controller and can be contacted at: West Suffolk House, Western Way, Bury St Edmunds, Suffolk, IP33 3YU. Tel: 01284 763233. The Data Protection Officer is Leah Mickleborough and can be contacted at the same address. We are collecting your personal information in order to process your application under the Local Government Miscellaneous Provisions Act 1982. Your data will not be shared with third parties unless used for Council purposes, in order to enquire and receive information relating to your licence, prevent or detect crime, to protect public funds or where we are required or permitted to share data under other legislation. Your data will be kept for 7 years post licence expiry/surrender in line with our retention policy. You have the right to access your data and to rectify mistakes, erase, restrict, object or move your data in certain circumstances. Automated decision making and processing is not used during this application. Please contact the Data Protection Officer for further information or go to our website where your rights are explained in more detail. If you would like to receive an explanation of your rights in paper format please contact the Data Protection Officer.

Any complaints regarding your data should be addresses to the Data Protection Officer in the first instance. If the matter is not resolved you can contact the Information Commissioner's Office at: Wycliff House, Water Lane, Wilmslow, Cheshire, SK9 5AF Tel: 0303 123 1113.

If you do not provide the information required on the application form then we will not be able to process application for a licence. Your data must be kept up to date in accordance with the conditions of your licence.

For further information on our Data protection Policies please go to our website: [How we use your information](#) or email: [data.protection@westsuffolk.gov.uk](mailto:data.protection@westsuffolk.gov.uk)

## **Guidance notes to assist with completion of this application form**

- 1) Insert the name(s) of individual applicant(s) or partners or the trading name under which the business operates.
- 2) Insert the postal address, including the name by which the premises to be used as a sex establishment is to be known.
- 3) The full name, date and place of birth, national insurance number and private address of each individual applicant and names and private addresses of all directors must be supplied together with photographic evidence of identity for each person (eg. a certified copy of passport or driving licence).
- 4) The application form must be signed. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so. Where there is more than one applicant, all applicants or their respective agents must sign the application form.
- 5) This is the address that we shall use to correspond with the applicant(s) about this application.
- 6) A notice containing details of the application must be advertised on the premises to which the application relates for a continuous period of not less than 21 days from the day following the day on which it was given to the licensing authority, in a position from which it can be conveniently read by members of the public. The Council provides a template to assist with this requirement.
- 7) A notice containing details of the application must be published in a newspaper circulating in the local vicinity of the premises within 7 days of the application be given to the licensing authority. The Council provides a template to assist with this requirement.
- 8) Fee levels may change from time to time. Current fee levels can be obtained via the Council's website or by contacting the Licensing Authority.
- 9) For this purpose a criminal conviction certificate (issued under section 112 Police Act 1997), a criminal record certificate (issued under section 113A Police Act 1997) or the results of a subject access search under the Data Protection Act 1998 (b) of the Police National Computer by the National Identification Service will be satisfactory. Disclosures provided must be dated within one calendar month of the application date or else they will be rejected.
- 10) Specify the type of sex establishment you intend to operate. Tick ALL boxes that apply to this licence application. Also indicate the times for each day of the week that you propose to operate as a sex establishment. Specify N/A if you do not intend to operate on a particular day.
- 11) The application form must be signed. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so. Where there is more than one applicant, all applicants or their respective agents must sign the application form.
- 12) A plan of the premises must be submitted with the application, drawn to a legible scale (preferably 1:100) showing all external and internal doors and windows and the position of counters, display stands, booths, video / tv / film screens, exhibition areas, dance / performance / stage / restricted areas, fixed seating and tables, bars / counters

from which refreshments are available. Further a diagram showing the proposed external appearance/ frontage of the venue (this need not be professionally drawn) and this should include colour scheme, branding, advertising, window dressing, signage etc. Please note that the plan will form part of the licence and conditions. On renewal if there are no changes then a plan is not required.

13) Copies of the complete application together with a plan of the premises and any supporting documentation must be submitted to the Licensing Authority and Suffolk Constabulary:

Note: The Council may reasonably require the applicant(s) to provide additional documentation in connection with this application. All such requests shall be made in writing (including via email request).

<b>checklist of all documents to provide with this application</b>	
1) Any <b>continuation sheets</b> you have used in connection with this application form (please number, add you name and premises details to every additional sheet you have provided).	<input type="checkbox"/>
2) The <b>plan</b> of your premises showing the layout, fixtures, fittings and features requested. This need not be professionally drawn but must be to scale (preferably 1:100) clear and legible in all material respects. On renewal if there are no changes then a plan is not required.	<input type="checkbox"/>
3) A <b>diagram</b> showing the proposed external frontage of your sex establishment. This need not be professionally drawn but should be clear and legible in all material respects (indication of colour scheme and shop signage, naming and branding should also be included).	<input type="checkbox"/>
4) The correct <b>fee</b> for the application. Cheques should be made payable to West Suffolk Council.	<input type="checkbox"/>
5) <b>Proof of address</b> for all individual applicants – for example a current utility bill or bank statement.	<input type="checkbox"/>
6) <b>Endorsed photographs</b> of all individual applicants. Photos must be full faced and passport style, and endorsed as a true likeness by a professional person of standing in the community such as a doctor, solicitor, teacher, fire officer, local government officer or councillor. The contact details for the person endorsing the photos should also be provided with the photographs as validation checks will be made.	<input type="checkbox"/>
7) <b>Photographic proof</b> of identity and age documentation for individual applicants – for example a passport or DVLA photo card driving licence containing a date of birth.	<input type="checkbox"/>
8) Any <b>house rules, policy or similar documents</b> you propose to operate at the sex establishment, provided in support of your application – for example performer vetting and welfare, customer rules, management and supervision policy/structure, details of membership of a trade association, details of previous relevant experience etc.	<input type="checkbox"/>
9) <b>Criminal records basic level disclosure</b> or equivalent certificates – which should be no older than one calendar month. The police may also conduct background checks of any person connected to this application.	<input type="checkbox"/>
10) <b>Any documentation relating to verification</b> of the entitlement of any applicant to reside or work in the UK (should this be applicable). It should be noted that the Council is registered with the Home Office Evidence and Enquiry Unit and may check the eligibility status of any individual connected with this application.	<input type="checkbox"/>
11) Copy of Licensing Act 2003 <b>premises licence or club premises certificate</b> if applicable	<input type="checkbox"/>
12) <b>Serve the application</b> , together with accompanying documents, to both the Licensing Authority and Chief Officer of Police.	<input type="checkbox"/>
13) Copy of the <b>notice</b> placed on or near the premises.	<input type="checkbox"/>

**Please send your application, fee and documents to the licensing department**

West Suffolk House

Western Way

Bury St Edmunds IP33 3YU

Phone: 01284 758050 Email: [licensing@westsuffolk.gov.uk](mailto:licensing@westsuffolk.gov.uk)



# Sex Establishment Licensing Policy

February 2017

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## Preface

West Suffolk Council has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that it can license sex shops, sex cinemas, and sexual entertainment venues in the local authority area. In this policy, these are referred to as "sex establishments" unless otherwise stated.

West Suffolk Council recognises that Parliament has made it lawful to operate sex establishments, and that such businesses are a legitimate part of the retail and leisure industry. It is West Suffolk Council's role as the licensing authority to administer the licensing regime in accordance with the law.

The 1982 Act and 2009 Act can be viewed at [www.legislation.gov.uk](http://www.legislation.gov.uk)

Consultation on this policy was conducted taking account of representations from local residents and community groups; existing and potential holders of sex establishment licences in the area; relevant statutory bodies and representatives of premise licence holders under the Licensing Act 2003 within the area.

In developing this policy, West Suffolk Council took into account the legal requirements of the 1982 Act and its duties under:

- a) section 17 of the Crime and Disorder Act 1998 - to take all reasonable steps to reduce crime and disorder within West Suffolk;
- b) the Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) - obligations not to impede economic progress by the regulations West Suffolk Council set out and to particularly consider the impact of regulations on small businesses; and
- c) the Provision of Services Regulations 2009 to ensure requirements are:
  - i) non-discriminatory
  - ii) justified by an overriding reason relating to the public interest
  - iii) proportionate to that public interest objective
  - iv) clear and unambiguous
  - v) objective
  - vi) made public in advance, and
  - vii) transparent and accessible.

This Policy took effect in February 2017 and will be subject to periodic review.

This Policy sets out the principles West Suffolk Council will generally apply when making decisions on applications. It also sets out information about the application process, what is expected of applicants and how people can make objections about applications. It also sets out the types of controls that are available to the councils, when decisions are made about licence applications and explains what action can be taken if complaints are received.

## **1.0 Introduction**

1.1 West Suffolk Council has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) in order to licence sex shops, sex cinemas, and sexual entertainment venues in West Suffolk.

This Sex Establishment Licensing Policy sets out West Suffolk Council's requirement for premises to be licensed as 'sex establishments' within the meaning of the Act (as amended).

1.2 This document relates to applications in respect of:

- Sex cinemas
- Sex shops
- Sexual entertainment venues

1.3 The advice and guidance contained in the appendices attached to this policy is intended only to assist readers in understanding the policy and should not be interpreted as legal advice or as constituent of West Suffolk Council statement of Sex Establishment Licensing Policy.

1.4 Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Local Government (Miscellaneous Provisions) Act 1982 or Schedules under the Act.

## **2.0 Purpose of the Sex Establishment Licensing Policy**

2.1 The purpose of this Statement of Licensing Policy is to:

- inform the elected Members serving on the Licensing Committee of the parameters within which licensing decisions can be made;
- inform applicants, residents and businesses of the parameters within which the Licensing Authority will make licensing decisions;
- inform residents and businesses about how the Licensing Authority will make licensing decisions; and
- provide a basis for decisions made by the Licensing Authority if these decisions are challenged in a court of law.
- link into the wider context of services/strategies which provide support for individuals that encourage a safer experience in West Suffolk.

## **3.0 Key terms**

3.1 **Premises** include any vessel, vehicle or stall but do not include a private dwelling to which the public are not admitted.

3.2 **Sex Article** means

- a) anything made for use in connection with, or for the purpose of

stimulating or encouraging:

- i) sexual activity;
- ii) acts of force or restraint which are associated with sexual activity, and

b) anything:

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

3.3 **Sex Cinema** means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which

- a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:-
  - i) sexual activity;
  - ii) acts of force or restraint which are associated with sexual activity.
- 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.

3.4 **Sex Establishment** means a Sexual Entertainment Venue, Sex Cinema or a Sex Shop as appropriate.

3.5 **Sex Shop** means any premises, vehicle or vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying, or demonstrating:

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

3.6 **Sexual Entertainment Venue** means any premises at which Relevant Entertainment is provided before a live audience for the financial gain of the organiser or the entertainer (subject to the exceptions set out in

paragraph 4.1 below).

**3.7 Relevant Entertainment** means any live performance or live display of Nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).

An audience can consist of just one person (e.g. where the entertainment takes place in private booths).

**3.6 Nudity** means:

In the case of a woman: exposure of her nipples, pubic area, genitals or anus; and

In the case of a man: exposure of his pubic area, genitals or anus.

**3.7 Relevant Entertainment**

West Suffolk Council will judge each case of its merits and the definition of Relevant Entertainment will apply to the following forms of entertainment as they are commonly understood:

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

**3.8** The above list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, they should only be treated as indicative. Ultimately, decisions to licence premises as Sexual Entertainment Venues shall depend on the content of the entertainment provided and not the name it is given.

#### **4.0 Sexual Entertainment Venues - exceptions**

**4.1** Schedule 3, Paragraph 2A (3) of the 1982 Act defines those premises that are not Sexual Entertainment Venues. These are:

- Sex Shops and Sex Cinemas (which are separately defined in Schedule 3 to the 1982 Act)
- Premises which provide Relevant Entertainment on an infrequent basis. These are defined as premises where:-
  - a) no Relevant Entertainment has been provided on more than 11 occasions within a 12 month period;
  - b) no such occasions has begun within a period of one month beginning with the end of the previous occasions; and
  - c) no such occasion has lasted longer than 24 hours.
  - d) Other premises or types of performances or displays

exempted by an Order of the Secretary of State.

- 4.2 Premises which:
- provide Relevant Entertainment on an infrequent basis or
  - provide any form of adult entertainment which falls outside the definition of Relevant Entertainment will continue to be regulated under the Licensing Act 2003, insofar as they are providing Regulated Entertainment under that Act.

## **5.0 Requirement for a Licence**

- 5.1 Any person wishing to operate a sex establishment as defined by Schedule 3 requires a sex establishment licence, unless the requirement for a licence has been waived by the appropriate authority.
- 5.2 A licence would normally be granted for a period of one year; however West Suffolk Council may exercise their discretion to issue a licence for a shorter period if deemed appropriate.

## **6.0 Location of Licensed Premises**

- 6.1 West Suffolk Council acknowledges that a concentration of licensed premises in a particular area can result in a potential fear of crime, anti-social behaviour, noise pollution and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure.
- 6.2 West Suffolk Council has not imposed a limit on the number of premises that may be licensed in any area, nor identified any exclusion zones for the purpose of applying for a sex establishment licence.
- 6.3 West Suffolk Council will not normally grant a licence where any premises within the vicinity are used for the following:
- (a) school;
  - (b) place of worship;
  - (c) family leisure;
  - (d) domestic residential buildings;
  - (e) important historic buildings;
  - (f) youth facilities;
  - (g) important public and cultural facilities.
- 6.3.1 In other instances, West Suffolk Council will consider this ground of refusal on the merits of the individual case.
- 6.3.2 The precise extent of vicinity will be determined in the light of the precise location of any application and any representations made in response thereto.
- 6.3.3 In deciding whether such premises are in the vicinity of the application site, West Suffolk Council will not use a pre-determined distance, but

will consider each case on its individual merits, and will take account of its local knowledge where appropriate. In determining the issue, it will take account of:

- (a) distance,
- (b) intervisibility,
- (c) linkages between them, including whether the premises and application site are connected by well-used walking routes;
- (d) any visual or physical barriers between them.

6.3.4 In considering the application of this policy to domestic residential buildings, West Suffolk Council will take into account the number of such buildings, their density, their primary use, the number of dwelling units they comprise and their distance from the application site.”.

6.4 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a sex establishment.

6.5 West Suffolk Council would normally expect that applications for licences for permanent commercial premises should be from businesses with appropriate planning consent for the property concerned.

## **7.0 Making an application**

7.1 An application for the grant, renewal, transfer or variation of a licence must be made in writing to the Council in accordance with the requirements shown in Appendix A.

7.2 In keeping with West Suffolk Council’s policy on the introduction of e-Government, the council consents to applications and other notices being given electronically. The address at which the Council will accept applications and notices is;-

West Suffolk Council  
Council Offices  
College Heath Road  
Mildenhall  
Suffolk  
IP28 7EY  
or:

West Suffolk Council  
West Suffolk House  
Western Way  
Bury St Edmunds  
Suffolk  
IP33 3YU

Telephone: 01284 758050  
email: [licensing@westsuffolk.gov.uk](mailto:licensing@westsuffolk.gov.uk)  
web: [www.westsuffolk.gov.uk](http://www.westsuffolk.gov.uk)

7.3 A specimen application form and notice for public advertisement is attached in Appendices B and C.

7.4 A copy of the application must be submitted to the Chief Officer of

Police within 7 days of submitting the application to the Licensing Authority.

## **8.0 Fees**

- 8.1 The application process involves paying a non-returnable application fee.
- 8.2 Fees are reviewed annually against any rise in Council costs of administering the licensing regime.

## **9.0 Advice and Guidance**

- 9.1 West Suffolk Council will seek to liaise with applicants and/or mediate between applicants and others who may make objections, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit.
- 9.2 Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discusses their proposals with the licensing section and those from whom they think objections are likely prior to submitting their application.

## **10.0 Grant, renewal or transfer of licences**

- 10.1 West Suffolk Council may grant to any applicant and renew a licence for the use of any premises as a 'sex establishment' on such terms and conditions as specified by the Council. (Refer to '16 – Conditions' and Appendices B and E).
- 10.2 Decisions regarding, the grant, renewal or transfer of a licence will be dealt with by either a Full or Sub Committee or Officers in accordance with the Schedule of Delegated Decisions in Appendix H.
- 10.3 A licence will remain in force for one year, or such shorter period specified in the licence, unless previously cancelled or revoked.
- 10.4 West Suffolk Council may, if they think fit, transfer a licence to any other person upon application by that person.
- 10.5 Where an application for renewal or transfer of a licence is made before the date of expiry of the existing licence, the licence shall remain in force until such time as the application has been determined.
- 10.6 Where applications for licences have been granted, the Council will send the licence to applicants by post.

## **11.0 Waivers**

- 11.1 West Suffolk Council do not consider it appropriate to permit waivers from the requirements to hold a sex establishment licence, except in extreme and exceptional circumstances considered by the Licensing Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).
- 11.2 Each application for a waiver will be considered on its individual merits. However, any establishment that would normally require licensing under the provisions of the 1982 Act is unlikely to be granted a waiver.
- 11.3 In order for a waiver to be considered, an applicant must provide the basic information included in the application form, and any other information the authority may reasonably require in order to make its decision.
- 11.4 A waiver may be for such period as the Council sees fit. Where the Council grants an application for a waiver, notice will be given to the applicant stating that it has granted the application. The Authority may at any time give a person who would require a licence, notice that the waiver is to terminate, on such date not less than 28 days from the date on which it gives the notice, or as may be specified in the notice.

## **12.0 Amendments to the Licensing Act 2003**

- 12.1 Premises holding a sexual entertainment venue licence will not require a premises licence under the Licensing Act 2003 (as amended) unless the premises is carrying on other licensable activities e.g. the sale of alcohol or the provision of regulated entertainment.
- 12.2 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the Licensing Act 2003 (as amended).

## **13.0 Exchange of Information**

- 13.1 West Suffolk Council may from time to time exercise their powers under Section 115 of the Crime and Disorder Act 1998 to exchange information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.
- 13.2 Details of applications and objections which are referred to a Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.
- 13.3 The name and address of objectors will not be disclosed to applicants or published in public reports in accordance with schedule 3, paragraph 10 (17) Local Government (Miscellaneous Provisions) Act 1982, as



amended by the Policing and Crime Act 2009. Such details will be made available to Councillors on the Licensing Committee.

#### **14.0 Variation of licences**

14.1 The holder of a licence may apply to the Council to vary the terms, conditions or restrictions on or subject to which the licence is held.

#### **15.0 Commenting on licence applications / Making objections**

15.1 Unlike some other licensing regimes (such as for alcohol, entertainment or gambling), a wide range of people can raise objections about sex establishments licences. The Police are a statutory consultee for all applications.

15.2 Although applicants are only required to provide notice of the application to the Police, West Suffolk Council will endeavour to list applications on its website and notify the following partner authorities of accepted applications made:

- Suffolk Constabulary
- Environmental Health (West Suffolk Council)
- Planning Services (West Suffolk Council)
- Families and Communities (West Suffolk Council)
- Parish or Town Council
- District or Borough Councillor (Ward Member)
- Suffolk Fire Service

15.3 Objectors should have something to say which is relevant to consideration of the statutory grounds for refusal that are set out in the 1982 Act; see appendix E.

15.4 West Suffolk Council takes the following approach to deciding applications:

- (a) each case will be decided upon its merits. West Suffolk Council will not apply a rigid rule to its decision making;
- (b) objectors can include residents'/tenants' associations, community associations, and trade associations. Councillors and MPs may also raise objections. Elected councillors may represent interested parties, providing they do not also sit on the Licensing Committee determining the application in question;
- (c) clear reasons for its decision will always be given.

15.5 West Suffolk Council will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by Officers. A report will be

submitted in advance of any licence hearing that will outline the application and indicate the general grounds of representations.

- 15.6 A vexatious objection is generally taken as being one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 15.7 Objections will be considered at a hearing either by the full Licensing Committee or a Licensing Sub Committee. Both applicants and objectors will be given an equal opportunity to state their case in accordance with West Suffolk Council hearing procedure, a copy of which can be found in appendix G.
- 15.8 Objections should ideally:
- be made in writing (this will include submissions electronically)
  - be in black ink on single sides of A4 paper
  - indicate the name and address of the persons or organisations making the representation
  - indicate the premises to which the objection relates
  - indicate the proximity of the premises to the person making the objection. A sketch map or plan may be helpful to show this
  - clearly set out the reasons for making the objections.
- 15.9 Petitions must clearly state the name and address of the premises application being objected to. The full objection that people are signing to say they agree with must be at the top of the petition. The objection must be in line with the requirements of the legislation. The names and address of those signing the petition should be provided and should be legible, together with a signature.
- 15.10 West Suffolk Council must be confident that those signing the petition were aware of what they were signing for. So in the interest of clarity for those signing, best practice would be to have the objection at the top of each page; especially where several people are involved in collecting signatures.
- 15.11 It should be noted that submissions to the Council may also be in support of an application. These should contain the same information as stated above.
- 15.12 Objections may only be made within the period of 28 days following the date on which the application was given to the Council.
- 15.13 West Suffolk Council will not consider any objection that does not

contain the name and address of the person making it. (Refer also to 9.3 above).

- 15.14 Where objections are made, West Suffolk Council will provide copies to the applicant. West Suffolk Council will not divulge the identity of the objector(s) to the applicant without their permission to do so.
- 15.15 Where objections are made and not withdrawn, a hearing before the full Licensing Committee or delegated to a Licensing Sub Committee of three Councillors will normally be held within 20 working days of the end of the period in which objections might be made, unless all parties agree that a hearing is unnecessary.
- 15.16 In all cases, applicants who are genuinely aggrieved by a decision of the Council are entitled to appeal to the Magistrates' Court.
- 15.17 In the case of first or new applications, where no objections are made, the Council will grant the licence subject to terms and conditions that are consistent with the type and operation of the sex establishment (Please refer to '13 - Conditions').

## **16.0 Determining applications**

- 16.1 When considering applications, West Suffolk Council will have regard to:
- a) the Local Government (Miscellaneous Provisions) Act 1982, as amended;
  - b) any supporting regulations;
  - c) this licensing policy

Refer also to Appendix D

- 16.2 This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.
- 16.3 When determining applications, West Suffolk Council will take account of any comments made by the Chief Officer of Police and any objections made.
- 16.4 In all cases, West Suffolk Council reserves the right to consider each application on its own merit.

## **17.0. Conditions**

- 17.1 The standard conditions that may be attached to a licence are shown in

Appendix C. It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.

- 17.2 West Suffolk Council recognises that all applications should be considered on an individual basis and any additional conditions attached to such a licence will be tailored to suit each individual premise.
- 17.3 No condition will be imposed that cannot be shown to be necessary.
- 17.4 Where it is reasonable and necessary to do so, the Licensing Committee will impose additional proportional conditions on a licence. Wherever possible, these will be discussed in advance with operators by Licensing Officers.

## **18.0 Refusal of licences**

- 18.1 Except where West Suffolk Council is prohibited from granting, renewing, varying or transferring a licence, West Suffolk Council will not refuse a licence without first:
- a) Notifying the applicant or holder of the licence in writing of the reasons; and,
  - b) Giving the applicant or holder of the licence the opportunity of appearing and making representations before a Licensing Committee.
- 18.2 The circumstances in which West Suffolk Council must or may refuse a licence are shown in Appendix D.

## **19.0 Revocation of licences**

- 19.1 West Suffolk Council may revoke a licence:
- a) on any grounds specified in paragraph 1 of Appendix D to this policy;
  - b) on either of the grounds specified in paragraph 3 (a) and (b) of Appendix D of this policy. West Suffolk Council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a Licensing Committee.

## **20.0 Cancellation of licences**

- 20.1 The licence holder may surrender the licence at any time and may request in writing for West Suffolk Council to cancel the licence.
- 20.2 In the event of the death of a licence holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.

20.3 Where West Suffolk Council is satisfied that it is necessary for the purpose of winding up the estate of the deceased licence holder, it may extend or further extend the period in which the licence remains in force.

## **21.0 Right to appeal a decision**

21.1 If an application is refused, or revoked, following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal.

21.2 Appeals must be made to the local Magistrates' Court within 21 days, starting from the date the applicant is notified of West Suffolk Council's decision. The notice will advise the address of the appropriate Magistrates' Court to which such an appeal should be submitted. It should be noted that a fee may be payable to the Magistrates to lodge such an appeal,

21.3 Applicants can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed.

21.4 Please note that you cannot appeal against West Suffolk Council's decision if the application was refused on the grounds that:

- The number of sex establishments (if a limit is set - see paragraph 6.2), or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
- The grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.

21.5 The Magistrates' Court will determine the appeal application. If you do not agree with the decision made by the Magistrates' Court, you can appeal to Crown Court. The decision made by the Crown Court will be final. The Council must comply with a decision made by a Magistrates or Crown Court.

## **22.0 Complaints**

22.1 Where possible and appropriate, West Suffolk Council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

## **23.0 Enforcement**

23.1 West Suffolk Council is responsible for the administration and

enforcement of the licensing regime and will have regard to the Department of Business Enterprise & Regulatory Reform's Regulators Compliance Code and the Better Regulation Commission's five Principles of Good Regulation. West Suffolk Council will carry out its regulatory functions in a fair, open and consistent manner.

**23.2** Specifically, West Suffolk Council will:

- a) be proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed;
- b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
- c) be consistent – to implement rules and standards fairly;
- d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal;
- e) target its regulatory action at cases in which action is needed.

**23.3** West Suffolk Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence.

**23.4** However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law or breach conditions of the licence.

**23.5** West Suffolk Council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how West Suffolk Council will undertake its role and how the principles of effective enforcement will be achieved.

**23.6** This policy is freely available from the licensing section, as are details of West Suffolk Council's corporate complaints procedures, both of which can be viewed on West Suffolk Council's website: [www.westsuffolk.gov.uk](http://www.westsuffolk.gov.uk)

## Appendix A

### Requirements for applying for grant, variation, transfer or renewal of a sex establishment licence

#### Grant of a licence

- 1) To apply for the grant of a sex establishment licence an applicant must:-
  - a) Send the council:-
    - i) A **completed application form.**;
    - ii) Any **continuation sheets** (with name and premises details added to every sheet)
    - iii) A **plan** to the scale 1:100 of the premises to which the application relates (showing layout, fixtures, and fixtures), (indication of colour scheme and shop signage, naming and branding should also be included);
    - iv) The application fee. Cheques should be made payable to 'West Suffolk Council' and may not be refunded in the event your application is unsuccessful.
    - v) Proof of address; for all individual applicants – for example a current utility bill or bank statement.
    - vi) **Endorsed photographs** of all individual applicants. Photos must be full faced and passport style, and endorsed as a true likeness by a professional person of standing in the community such as a doctor, solicitor, teacher, fire officer, local government officer or councillor. The contact details for the person endorsing the photos should also be provided with the photographs as validation checks will be made.
    - vii) **Photographic proof** of identity and age documentation for individual applicants – for example a passport or DVLA photocard driving licence containing a date of birth. Any **house rules, policy or similar documents** you propose to operate at the sex establishment, provided in support of your application – for example performer vetting and welfare, customer rules, management and supervision policy/structure, details of membership of a trade association, details of previous relevant experience etc.
    - viii) **Criminal records basic level disclosure** or equivalent certificates – which should be no older than one calendar month. The Police may also conduct background checks of any person connected to this application.
    - ix) **Any documentation relating to verification** of the entitlement of any applicant to reside or work in the UK (should this be applicable). It should be noted that West Suffolk Council is registered with the Home Office Evidence and Enquiry Unit and may check the eligibility status of any individual connected with this application.
    - x) Copy of Licensing Act 2003 premises licence or club premises certificate if applicable.

And also:

- i) **Serve the application**, together with accompanying documents, to both the Licensing Authority and Chief Officer of Police.
- ii) display in a conspicuous location a **notice** on or near the premises;
- iii) **advertise** the application in a local newspaper;

- b) send a copy of the application and plan to the Chief Officer of Police within 7 days of making the application to the council to the following address:

Police Licensing Team  
Landmark House  
Egerton Road  
Ipswich  
Suffolk  
IP1 5PF

[policealcohollicensing@suffolk.pnn.police.uk](mailto:policealcohollicensing@suffolk.pnn.police.uk)

**Note: Or any other address as defined by the Police**

### **Specific Plan requirements**

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



## **Public notices**

- 4) A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to West Suffolk Council, where it can be conveniently and easily read from the exterior of the premises by members of the public and other relevant persons.
- 5) Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.
- 6) The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
- 7) The notice must state:-
  - a) details of the application and activities that it is proposed will be carried on or from the premises;
  - b) the full name of the applicant,
  - c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
  - d) the date, being 28 days after that on which the application is given to West Suffolk Councils, by which representations may be made to West Suffolk Council and that representations should be made in writing,
  - e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5000) for which a person is liable on summary conviction for the offence.
- 8) A similar notice must be published in a local newspaper or similar document within 7 days of giving the application to West Suffolk Council. (Please see specimen notice in Appendix B).

## **Variation of a licence**

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

## **Renewal of a licence**

- 11) The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.

- 12) The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.
- 13) A person may apply for transfer of a licence at any time.
- 14) The process of applying for a transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

**SITE ADVERTISEMENT**

**Application for a Sex Establishment Licence made under the Local Government (Miscellaneous Provisions) Act, 1982, Part II, Schedule 3**

**NOTICE IS HEREBY GIVEN THAT I/WE (FULL NAMES):**

**APPLIED ON (DATE):**

**TO: West Suffolk Council\***

**in respect of the premises known as:  
located at (address of premises):**

**for a licence to use the premises as a 'Sex Establishment'**

**ANY PERSON wishing to oppose the application should write to the Licensing Department at:**

**Council Offices, College Heath Road, Mildenhall, Suffolk.  
IP28 7EY or**

**West Suffolk House, Western Way, Bury St. Edmunds,  
Suffolk, IP33 3YU**

**Correspondence in support of the application should also be sent to the Licensing Team at the above address.**

**Please note that any written representations received in response to this consultation are likely to be required to be made available for public inspection in accordance with the Local Government (Access to Information) Act 1985**

**Representations should be received within 28 days after the date of application being made to the council**

**Appendix C  
West Suffolk Council**

**Regulations prescribing standard conditions applicable  
to licenses for sex establishments**

**These regulations are made by the council under paragraph 13(1) of the third schedule of the local government (miscellaneous provisions) act 1982 (as amended) and come into effect on 14 december 2011.**

**Notes**

- a) Except where the context demands otherwise the singular includes the plural and the masculine includes the feminine.
- b) Nothing in these rules shall be construed as interfering with (i) the discretion of the licensee or his representative regarding the admission of any person or (ii) the need to strictly comply with all relevant statutory requirements.
- c) These rules are divided into parts as follows:
  - Part I General
  - Part II Rules which apply to all premises
  - Part III Rules which apply to Sex Shops
  - Part IV Rules which apply to Sex Cinemas
  - Part V Rules which apply to Sexual Entertainment Venues
- d) In these rules all references to a British Standard (BS) shall be deemed to refer to the current standard.
- e) A Premises Licence may also be required for the operation of a Sex Cinema.

## **Part I General Definitions**

1. In these Regulations save when the context otherwise requires the following expressions shall have the following meanings:
  - i) "Sex Establishment", "Sex Cinema", "Sex Shop", "Sex Article" and "Sexual Entertainment Venue" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
  - ii) "Premises" means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a Sex Establishment granted under the said Third Schedule.
  - iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
  - iv) "Approved" means approved by the Council in writing.
  - v) "The Council" means the relevant licencing authority that the premises is based within i.e. either Forest Heath District Council or St. Edmundsbury Borough Council.

### **General**

- 2) In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
- 3) The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment, by law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

## **Part II Rules which apply to all premises**

### **Exhibition of Licence**

- 4) The copy of the Licence and these Regulations which are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by West Suffolk Council. The copy of the Licence required to be displayed as aforesaid shall be suitably framed and exhibited in a position that it can easily be seen by all persons using the premises. The copy of these Regulations shall be retained in a clean and legible condition.

### **Times of Opening**

- 5) Except with the previous consent of West Suffolk Council a Sex Establishment shall be open at times to be determined by application and subsequent determination.

### **Responsibility of Licensee**

- 6) The licensee shall take all reasonable precautions for the safety of the public and employees and, except with the consent of West Suffolk Council, shall retain control over all portions of the premises
- 7) The premises shall not be used for regulated entertainment, exhibition or display of any kind unless West Suffolk Council's consent has first been obtained and any necessary licence granted.

### **Conduct and Management of Premises**

- 8) The Licensee or some responsible person over 18 years of age nominated by him in writing for the purpose of managing the Sex Establishment in his absence shall be in charge of and upon the Premises during the whole time they are open to the public. Such written nomination shall be continuously available for inspection by an officer authorised in writing by West Suffolk Council. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge shall be conversant with these rules a copy of which shall be held on the premises.
- 9) The Licensee or the responsible person approved under Regulation 8 shall maintain a daily register to be kept on the premises in which he shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his absence and the names and addresses of those employed in the Sex Establishment.
- 10) The register is to be completed each day within 30 minutes of the Sex Establishment opening for business and is to be available for inspection by the police and by authorised officers of West Suffolk Council.
- 11) The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears either a badge or a uniform which clearly shows that they are a member of staff. Performer(s) are not expected to wear the badge/uniform during performances.

- 12) A notice showing the name of the person responsible for the management of a Sex Establishment shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.
- 13) Where the Licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to West Suffolk Council within 14 days of such change and such written details as West Suffolk Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from West Suffolk Council.
- 14) The Licensee shall maintain good order in the premises.
- 15) The Licensee shall ensure that no part of the premises is used by prostitutes (male or female) for the purposes of soliciting or any other immoral purposes.
- 16) The Licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been approved by West Suffolk Council.
- 17) Neither the Licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.
- 18) No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.
- 19) The Licensee shall comply with all statutory provisions and any regulations made there under.

### **External Appearance**

- 20) No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, photograph, drawing, writing or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except:
  - i) A sign or notice no larger than A2 (420 × 594mm) in size, bearing the name of the establishment; or
  - ii) Other sign/notice required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence granted by West Suffolk Council.
  - iii) Such display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by West Suffolk Council.
- 21) The entrances to the premises shall be of a material or covered with a material which will prevent the interior of the premises being visible to passers by.
- 22) Windows and openings to the premises other than entrances shall not be obscured otherwise than with the consent of West Suffolk Council but shall have suspended behind them which prevents the interior visible from the street to passers by.

## **State Condition and Layout of the Premises**

- 23) The premises shall be maintained in good repair and condition.
- 24) The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by West Suffolk Council and shall comply with the following requirements :
  - i) All such doors or openings approved by West Suffolk Council shall be clearly indicated on the inside by the word "exit" or graphic type sign.
  - ii) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked, "private".
  - iii) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.
- 25) The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 26) The Licensee shall make provision in the means of access both to and within the premises for the needs of members of the public visiting the premises who are disabled.
- 27) Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of West Suffolk Council.
- 28) All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of West Suffolk Council.

## **Maintenance of mean of escape**

- 29) The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable in accordance with the approved arrangements.
- 30) All fire-resisting and smoke stop doors shall be maintained self-closing and shall not be secured open.

## **Fire Appliances**

- 31) Fire appliances and equipment as approved by the Fire Officer shall be efficiently maintained in satisfactory working order and kept available for instant use. They shall be in the charge of a suitable person specially nominated for the purpose.
- 32) Portable fire appliances shall be examined at least once a year and periodically tested in accordance with the current British Standard by a competent person and the date of such test shall be clearly marked on the appropriate extinguishers or on stout tabs securely attached to them. Extinguishers which incorporate an anti-freeze agent shall be examined and recharged in compliance with manufacturer's instructions.



## **Lighting**

- 33) The Licensee or any other person concerned in the conduct or management of the licensed sex establishment shall, in the absence of adequate daylight, ensure that adequate lighting is maintained to the satisfaction of West Suffolk Council in all parts of the premises to which the public and staff have access and is in operation continuously during the whole time the premises are open to the public.
- 34) The normal lighting shall be maintained alight and the lighting to 'EXIT' notices shall not in any circumstances be extinguished or dimmed while the public are on the premises, provided that so long as there is sufficient daylight in any part of the premises, artificial light need not be used in that part.

## **Electrical Installations**

- 35) The electrical installation for the premises shall be maintained in a safe working condition, as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers.
- 36) Unless West Suffolk Council decide otherwise an inspection certificate, as prescribed in the current edition of the Regulations for electrical installations issued by the Institution of Electrical Engineers, for the electrical installation associated with the premises shall be submitted to West Suffolk Council at least once every five years or such other time specified on the certificate. The certificate shall be signed by a qualified engineer.

## **Change of Use**

- 37) No change of use of any portion of the premises from that approved by West Suffolk Council shall be made until the consent of West Suffolk Council and Suffolk Constabulary has been obtained thereto.
- 38) No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of West Suffolk Council and Suffolk Constabulary.
- 39) Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema or a Sexual Entertainment Venue.

## **Admission of Authorised Officers**

- 40) Officers of West Suffolk Council, Suffolk Constabulary, and other authorised agencies, who are furnished with authorities which they will produce on request, shall be admitted immediately at all reasonable times and at any time the premises are open for business to all parts of the premises.

## **Promotion of Sexual Health**

- 41) Advertisements and posters promoting sexual health and access to support services shall be displayed in the premises. Only those advertisements or posters from the Department for Health, NHS, or approved by West Suffolk Council will be permitted.

**Part III Conditions Applying to Sex Shops  
Goods Available in Sex Establishments**

- 41) All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
- 42) All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase, hire, exchange or loan and a notice to this effect is to be prominently displayed within the Sex Establishment.
- 43) No film or video film shall be exhibited, sold or supplied unless it has (a) been passed by the British Board of Film Censors and bears a certificate to that effect or (b) approved by West Suffolk Council and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

## Part IV Conditions Applying to Sex Cinemas Film Categories

1. The categories U, PG, 12, 15, 18 and RESTRICTED 18 have the following effect:

U	Universal.- Suitable for all
PG	Parental Guidance. Some scenes may be unsuitable for young children.
12	Passed only for persons of 12 years and over.
15	Passed only for persons of 15 years and over.
18	Passed only for persons of 18 years and over.
RESTRICTED (18)	Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

### Exhibition of Films

2. 'Film exhibition' means film exhibitions as defined in the Cinemas Act 1985; i.e. any exhibition of moving pictures which is produced otherwise than by the simultaneous reception and exhibition of (a) television programmes, broadcast by the British Broadcasting Corporation or the

Independent Broadcasting Authority or (b) programmes included in a cable programme service which is or does not require to be licensed under Section 4 of the Cable and Broadcasting Act 1984.

3. No film shall be exhibited at the premises unless:
- (a) it is a current news-reel; or
  - (b) it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by West Suffolk Council;

### RESTRICTED (18) films

4. Films in the RESTRICTED (18) category may be shown at the premises only with West Suffolk Council prior written consent and in accordance with the terms of any such consent.

### Unclassified Films

5. Not less than twenty-eight day's notice in writing shall be given to West Suffolk Council of any proposal to exhibit any other film which has not been classified as specified in rules 45 and 47 above. Such a film may only be exhibited if West Suffolk Council prior written consent has been

obtained and in accordance with the terms of any such consent.

### **Persons under 18 Notice**

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

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

### **Category notices**

7. A representation or written statement of the terms of any certificates given by the British Board of Film Censors or the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates and the representation or statement shall be shown for long enough and in form large enough for it to be read from any seat in the auditorium.

### **Timetable of films**

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

### **Advertisements**

9. No advertisement displayed at the premises of a film to be exhibited at the premises shall depict as a scene or incident in the film any scene or incident which is not included in the film as certified by the British Board of Film Censors or the British Board of Film Classification or approved for exhibition by the licensing authority, as the case may be.
10. Where the licensing authority has given notice in writing to the licensee of the premises objecting to an advertisement on the ground, that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed at the premises except with the prior consent in writing of the licensing authority.

### **Objection to exhibition of film**

11. Where the licensing authority has given notice in writing to the licensee of the premises prohibiting the exhibition of a film on the ground that it contains material which, if exhibited, would offend against good taste or decency or would be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that film shall not be exhibited in the premises except with the prior consent in writing of the licensing authority.

## **Additional conditions for 'Club' Cinemas showing films in the restricted classification**

### 12. Additional Conditions include:

- No club showing films in the 'restricted 18' category may operate in a multi-screen complex whilst persons under 18 are being admitted to any performance in the complex unless West Suffolk Council written consent has first been obtained.
- When the programme includes a film in 'restricted 18, category the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

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

(In case of a multi-screen complex where consent has been granted the notice shall specify the particular part of the premises in which films in the 'restricted 18' category are being exhibited).

- The timetable of films required by rule 52 shall include the following addition to the categories shown;  
"Category 'RESTRICTED 18' passed only for persons of 18 years and over who are either members of the cinema club or who are guests of a member".
- All registers of members and all visitors, books of their guests shall be available for immediate inspection by West Suffolk Council Officers during any performance, or at any other reasonable time.
- Tickets shall in no circumstances be sold to persons other than members.
- No persons under 18 years of age shall be employed in any capacity at licensed premises which are operating as cinema clubs.
- Subject to prior written consent by West Suffolk Council, a subscription may entitle the club member to attend other clubs under the same management.

Membership rules for these club cinemas shall include the following:

- a. The club rules must be submitted to West Suffolk Council 14 days before the club commences operations and notice of all rule changes shall be given to West Suffolk Council within 14 days of the change.
- b. Only members and their guests shall attend exhibitions of moving pictures classified in a restricted classification

- c. Membership shall be open to persons of both sexes of not less than 18 years of age. Applications for membership, including both name and address, shall be in writing, signed by the applicant, and if deemed necessary such applicants shall provide satisfactory references and proof of age.
- d. No person shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the licensed proprietors.
- e. New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
- f. An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the licensed proprietors may refuse to renew any membership without assigning reason for such refusal.
- g. Members shall be entitled on any day to bring not more than one guest to accompany the member, and the name of the guest shall be entered in the visitors' book and counter-signed by the member.
- h. On admission a member and his guest shall be bound by the rules of the club and by any by-laws and regulations made there under.
- i. Tickets shall be sold only to members on the production of a membership card, and members shall, if required, sign an acknowledgement for the ticket or tickets issued.
- j. Membership cards shall be personal to the member and shall not be transferable to any other person.
- k. Neither membership tickets nor guest tickets shall be transferable.
- l. No member shall introduce as a guest any persons under the age of 18 or any persons whose application for membership has been refused. The proprietors will reserve the right to refuse admission to any person.
- m. Proof of identify, or of age, or of any particulars of any guest shall be produced by any member or guest if demanded by the licensed proprietors.
- n. Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

### **Sale of sex articles**

- 13. Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of

force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a 'sex cinema'.

## **Part V Conditions Applying to Sexual Entertainment Venues**

### **Times of Relevant Entertainment**

1. Relevant entertainment shall be permitted at the premises on the days and at the times specified in the licence.

### **Performances of Relevant Entertainment**

2. The performance of relevant entertainment within the premises shall not be visible from any area outside of the premises at any time.

### **Age Restrictions**

3. A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.
4. All members of staff at the premises shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.

### **Staff**

5. All staff employed to work at any premises licensed as a Sexual Entertainment Venue shall be required to provide a basic Criminal Records Bureau disclosure to the Licensing Authority in which the premises is located.

### **Club Rules**

6. The premises must provide a copy of its Club Rules to West Suffolk Council and Suffolk Constabulary.
7. All performers and staff shall be aware of the Club Rules.
8. All dancers, staff and door supervisors shall read a copy of the rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the premises as part of their due diligence.

### **Management Operation Manual**

9. A Management Operation manual detailing all aspects of procedure when the premise is operating relevant entertainment shall be produced and approved by Suffolk Constabulary. This document shall be on going and under constant review.

### **Performers**

10. Performers shall be aged not less than 18.
11. All performers shall be aware of the Management Operation.



12. A log book shall be maintained on the premises detailing the names, start and finish times of individual performers involved in all forms of adult entertainment.
13. At all times during the performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience.
14. On leaving the premises performers, who wish to be, shall be escorted by a staff member to their vehicle or other safe location.
15. The operator / licence holder is responsible for adequately vetting staff and performers, details and records of which should be securely stored with the management operation manual.

### **Performances**

15. Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement.
16. There shall be no physical contact between customers and the dancers except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.
17. No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.
18. No audience participation shall be permitted.
19. Signs displaying the rules on the performance relevant entertainment will be displayed throughout the premises and be clearly visible to patrons. This will include any private individual booth area.
20. In the event of the relevant entertainment be performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designated for private relevant entertainment.

### **Door Supervisors**

21. An adequate number of registered Door Supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one Door Supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.
22. The Door Supervisors shall be on duty at the premises at all times when the premises provide relevant entertainment.
23. All Door Supervisors working outside the premises or whilst engaged in the dispersal of patrons at the close of business shall wear 'High Visibility Clothing'.
24. The premises shall be a member of the Radiolink scheme or its equivalent.

## **Closed Circuit Television (CCTV)**

25. A CCTV system shall be installed to cover all entrances and exits to the premises, and areas where relevant entertainment will take place. This system must be installed and fully operational before the premises opens for the licensable activity applied for. All cameras shall continually record whilst the premises are open to the public and video recordings shall be kept available for a minimum of 31 days with date and time stamping.
26. CCTV will be provided in the form of a recordable system, capable of providing evidential quality in all lighting conditions particularly facial recognition. To obtain a clear head and shoulders image of every person entering the premises on the CCTV system, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.
27. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of one calendar month. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
28. A plan shall be submitted illustrating the position of all cameras and shall be with the approval of Suffolk Constabulary.
29. A member of staff who is fully trained in the use of the system shall be on duty at all times when the premises is open till the premises is clear of customers, cleared of staff and closed.
30. The premises will provide any footage upon request by Suffolk Constabulary or the Licensing Authority within 24 hrs of the request.
31. The recordings for the preceding two days shall be made available immediately upon request, and recordings outside this period shall be made available within 24 hours.

## **Crime Survey**

32. Upon completion of a crime survey by Suffolk Constabulary, the Licence Holder shall act accordingly with all reasonable recommendations of the survey in so far as they relate to licensable activities.

## **Layout of premises**

33. The approved activities shall take place only in the areas designated by the Licensing Authority and Suffolk Constabulary.
34. All dance booths are to be equipped with a panic alarm for safety, or supervised by a registered/licensed door steward with radio link to other door stewards.

35. Arrangements shall be put in place to restrict access to the dressing room at all times when the relevant entertainment is taking place, and until such time as all performers have vacated it.
36. The approved access to the dressing room(s) shall be maintained whilst striptease or entertainment of a like kind is taking place.
37. The layout within areas used by customers shall not under-go substantial change without the prior written consent of both Suffolk Constabulary and the Licensing Authority.

### **Change of Use of Premises**

38. The Licensing Authority and Suffolk Constabulary must be informed should the licensee seek to change the use of the establishment to another form of sex establishment.

### **Sale of Goods**

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

## **Appendix D**

### **Refusals and Revocations of licences**

1. The Council must refuse to grant or transfer a licence to:-
  - (a) A person under the age of 18;
  - (b) A person who is for the time being disqualified from holding a licence;
  - (c) A person who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
  - (d) A body corporate which is not incorporated in the United Kingdom;
  - (e) A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
2. The Council may refuse
  - (a) an application for grant or renewal of a licence on one or more of the grounds shown in paragraph 3 below;
  - (b) an application for transfer of a licence on either or both of the grounds shown in paragraph 3 (a) and (b) below.
3. The grounds for refusal are:-
  - (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
  - (c) that the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which West Suffolk Council considers is appropriate for that locality;
  - (d) that the grant or renewal of the licence would be inappropriate having regard to:-
    - i. the character of the relevant locality;
    - ii. the use to which any premises in the vicinity are put; or
    - iii. the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
4. Nil may be an appropriate number for the purposes of paragraph 3 (c) above.

## **Appendix E**

### **Procedure for the Conduct of Sex Establishment Licensing Hearings**

#### **Procedure**

1. The Chairman should ask whether the applicant, if unaccompanied, was aware that they could be represented.
2. The Chairman should introduce those present at the meeting and state their position if Officers.
3. The Chairman should then request the appropriate Officer of West Suffolk Council to outline the matter under consideration.
4. The Applicant should then present their opening submission.
5. Members of the Committee and Council Officers will then have the opportunity to question the applicant regarding their opening submission.
6. Any Objectors would then be invited to address the Committee in relation to the relevant parts of their previously submitted representation. This may be subject to a time limit, which will be advised in advance of the hearing.  
  
**N.B.** This will occur only if Chairman has exercised his/her discretion to allow Objectors to address the Committee. As case law and legislation restricts objectors addressing the Committee, the Committee and the applicant are not permitted to ask questions of the objectors.
7. The applicant should then present their main submission which should include their response to objections, and call any necessary witnesses.
8. Members of the Committee and Council Officers will then have the opportunity to question the applicant regarding their main submission.
9. The applicant will then have the opportunity to sum up and generally have the right of final reply.
10. The Committee will then retire to obtain legal advice (see note i). The Legal Officer will retire with them.
11. The Committee will, unless an adjournment or deferral is necessary, return and the Decision will be read out.

#### **NOTES:**

Note i – Exclusion of the Public Procedure: - Paragraph 5 of Part 1 of Schedule 12A Local Government Act 1972, as amended. (Chairman will call for a proposal to exclude press and public, followed by a Seconder and vote will be taken.)

## **General**

1. The case for any party should only be put in the presence of the others, unless one party voluntarily chooses to leave the meeting. It is vital that all Members of the Committee present at the opening of the meeting remain present throughout the hearing, any Member arriving after consideration of the item has commenced should not take part in deliberations.
2. Members of the Committee should, during the hearing, confine themselves to questions and not embark upon discussion of the merits of the application.
3. Applications for adjournments should be granted if refusal would deny the applicant a fair hearing.
4. The Chairman may after consultation with the Solicitor present at the meeting vary the provisions of this Code of Conduct if deemed appropriate in the particular circumstances of an item of business being considered by the Committee.
5. The Chairman's ruling, in relation to this code and the conduct of the hearing, is final.

## Appendix F

### SCHEDULE OF DELEGATED AUTHORITY

Matter to be dealt with	Full Committee or Licensing Sub Committee	Officers
Grant (First or New) of an Application for the grant of any type of Sex Establishment Licence.	If a relevant objection received or Officers have concerns in respect of the application or characteristics of the locality.	All other cases
Decision on whether an objection is frivolous or vexatious.		In respect of all Applications.
Decision on whether an objection is irrelevant.		All cases
Application for Waiver of Licence in respect of any type of Sex Establishment Licence.	All cases	
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being under the age of 18.		All cases
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being a person who is for the time being disqualified from holding a licence following revocation of such a licence.		All cases
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made.		All cases
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being a body corporate which is not incorporated in an EEA state.		All cases
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds		All cases

<b>Matter to be dealt with</b>	<b>Full Committee or Licensing Sub Committee</b>	<b>Officers</b>
of the Applicant being a person who had, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.		
Refusal of an Application for the grant, renewal or transfer of any type of Sex Establishment Licence on the grounds that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.	All cases	
Refusal of an Application for the grant, renewal or transfer of any type of Sex Establishment Licence on the grounds that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewed or transfer of such a licence if he made the application himself.	All cases	
Refusal of an Application for the grant or renewal of any type of Sex Establishment Licence on the grounds that the number of sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made (determined) is equal to or exceeds the number which the authority consider is appropriate for that locality.	All cases	
Refusal of an Application for the grant or renewal of any type of Sex Establishment Licence on the grounds that the grant or renewal of the licence would be inappropriate, having regard – (i) to the character of the relevant locality; or (ii) to the use to which any	All cases	



<b>Matter to be dealt with</b>	<b>Full Committee or Licensing Sub Committee</b>	<b>Officers</b>
<pre> premises in the vicinity are put; or (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made. </pre>		
Refusal of an Application for the Variation of the terms, conditions or restrictions on or subject to which the licence is held for any type of Sex Establishment Licence.	All cases	
Revocation of a licence.	All cases	

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## **Newmarket Town Council**

### **Sexual Entertainment Venue Re-Licence**

Name of applicant: Newmarket Entertainment Ltd

Name of premises: Heaven

Lap dancing clubs show women as commodities: men purchase the right to have women strip and dance for them. As such, they reinforce the degrading notion that women's function is only to serve and satisfy men sexually. This has an impact on how all women are perceived; the ever-increasing sexual objectification of women runs counter to efforts to achieve equality between women and men.

Lap dancing clubs also normalise the practice of men paying women for sexual services, which has an impact on demand for other aspects of the sex industry. Research shows that even if clubs enforce a "no touching" rule, and even if there is no sexual contact between dancers and customers, the presence of strip clubs increases demand for nearby prostitution services.

The location of the Heaven club is significantly inappropriate. It is in a prominent position on the High Street, in a conservation area and is next door to a building owned by West Suffolk Council to house vulnerable people. It should also be noted that the club is opposite a children's play area.

The Heaven Club in Newmarket promotes and profits from the sexist culture that underpins male violence. We cannot tackle male violence without addressing this culture. The club reinforces a dangerous, sexist message to all women and girls that their value lies in their bodies and how they perform for men.

Newmarket Town Council should lead the way in promoting mutual respect between men and women, and to help in educating young people on how to achieve healthy relationships, rather than licensing the objectification of women.

We must do everything to fight violence against women and girls and acknowledge that this club is about sexually arousing men.

We object to the granting of this licence, because there is sufficient evidence to suggest that the objectification of women leads to violence against women.

We therefore object for the following reasons: No incidents / crimes been reported.

1. Prevention of crime and disorder
2. Public safety

We would like the licence for the Heaven club to be considered by the Full Licencing Committee.

N.B. The owners of Heaven club also own a club in Colchester. We would ask that research is undertaken to see whether the club in Colchester has had any problems. Colchester is not our district and we must remain impartial.

Dear Sir / Madam

I wish to strongly object to the application of Newmarket Entertainment Ltd to renew the Sex Establishment Licence for Heaven located 109 High Street Newmarket.

Grounds for **refusal** stated in West Suffolk Council's **own policy** include **3(d) that the grant or renewal of the licence would be inappropriate having regard to:-**

- i. the character of the relevant locality;**
- ii. the use to which any premises in the vicinity are put;**

The premises seeking renewal of the licence is in such a prominent position, at the junction of the historic High Street with close proximity to the Jockey Club, King Edward VII Memorial Hall and many other surreptitiously hidden gems of Newmarket. The premises seeking renewal of the license dominates this important gateway junction of the High Street and The Avenue, the main entrance to the Town from Cambridge. It is therefore not an appropriate position for such a business of this type and creates a negative impact being detrimental to the Town.

In addition , West Suffolk Council purchased the adjacent building to be used as a unit for the homeless, adding weight to West Suffolk's own policy about the suitability of renewing the license of a sex establishment within an increased residential area, not only within the area but next door.

**West Suffolk policy continues:**

6.3 The Council will **not normally** grant a license where any premises within the vicinity are used for the following:

- (a) **school;** whilst there is not a school in close proximity many school children walk past the premises due to its Town location and surrounding residential area
- (b) **place of worship;** The Memorial Hall is increasingly used as a place of worship, The Stable in the High Street, St Mary's Church and All Saints Church
- (c) **family leisure;** The Memorial Hall, The Memorial Gardens both generate income to the Town. The Memorial Hall is a venue for hire, increasingly used by families at times that coincide with the operating hours of the premises seeking renewal. The Memorial Gardens have had extensive refurbishment increasing the use of the facilities.
- (d) **domestic residential buildings;** Residential property of 105 High Street, residential homes in The Avenue. New residential homes opposite the sex establishment premises and more recently the prospect of residential development in the building previously occupied by Rushtons & Lloyd
- (e) **important historic buildings;** The historical buildings of The Jockey Club, The King Edward VII Memorial Hall (directly opposite), National Heritage Centre for Horseracing & Sporting Art which is attracting visitors to Newmarket contributing to the economic growth of the area to which West Suffolk Council and previously FHDC have made a financial commitment and support
- (f) **youth facilities;** The Memorial Hall and gardens used daily and generates income to the Town
- (g) **important public and cultural facilities;** Newmarket itself is the international home of

*horse racing attracting visitors to the many facets of the industry that are situated within the Town and to soak up the atmosphere generated by the unique features of Newmarket. The High Street is not a suitable or appropriate location for such a premises.*

*£740,000 was spent to buy 10 new sheltered accommodation units at The Avenue and High Street junction. The location of this type of accommodation for the intended use adds weight to the fact that the location of Heaven Awaits is totally unsuitable and **inappropriate** and the license should not be renewed.*

*I wish to make it clear that it is the location of the premises that I object to, for all the reasons above, which relate directly to the West Suffolk Council Sex Establishment Licensing Policy, this application should be refused.*

*I am happy to provide details of my address for use by the Authority for purposes of consideration of the application but would be grateful if you could inform me of the progress of the application and therefore not divulge my details for public use or directly to the applicant without informing me of the need to do so.*

*I would like to draw your attention to the fact that officers work within a suite of legal rules and policies. West Suffolk Council and the previous Forest Heath District Council do not and did not comply with their own policies in relation to continually renewing the License for these premises. I cannot understand the reason for doing so. What is the point of producing policies to just ignore them? The Licensing Committee, made up of Councillors who were elected to represent their residents, should strongly consider this application adhering to the Council's own policies. Councillors should have the will to make the right decision for the electorate.*

*I would also dispute some of the information contained within the application related to the presence of security at the entrance and have concerns about enforcement of conditions, which should be the concern of officers and Councillors.*