

APPENDIX C
Stage Two Comments
(7 comments)

From: [REDACTED]
To: [licensing@service](#)
Subject: Re: Sex Establishment Policy Consultation - Updated Draft
Date: 28 January 2020 16:00:29

Dear sir,

Thank you very much for sending me the email below. I fully support the draft policy in particular in that it sets the appropriate number of such establishments as Nil.

Regards,

[REDACTED]

Please excuse typos: sent from my phone.



Submission re Sheffield City Council's policy on SEV Licensing

1. WE Sheffield welcome the clear shift in emphasis in this new drafting of the SEV Policy from viewing SEVs as a legitimate part of the nighttime economy to a far more cautious approach with an attempt at understanding some of the issues.
2. In this document we will review the new draft and make reference to it section by section, whilst also commenting on the policy overall.
3. Part 2 – Overview
We note the addition of the “vulnerable adults” in the section which references safeguarding, although are concerned that whilst there is an acceptance that those working in the establishments may be vulnerable adults there is no detail about how they may be protected.
4. It is noted that at the last hearing for the Spearmint Rhino license application the Council's lead for Safeguarding did not seem to connect the fact that many of the dancers who spoke made reference to having experience of sexual abuse, which arguably makes them vulnerable adults, and were now involved in the sex industry.
5. Please see the following article on the Nordic Model Now website
<https://nordicmodelnow.org/2019/04/14/the-sex-industry-preys-upon-poor-abused-and-mentally-ill-women/>
6. This section also makes no reference to the harm which is done to society as a whole by having SEVs in our communities. Hyper-sexualisation of women is already extremely prevalent in our society, but is intensified in the culture of lap-dancing clubs and pornography, sold by sex shops. It is the essence of the sex industry and at the core of glossy promotional publicity, as evidenced by photographs from typical club websites and promotional twitter posts, which promote misogyny and sexism, and celebrate demeaning attitudes to women.
7. This section also states that “consideration” will be given to the Equality Act, whereas the Equality Act is in fact a statutory duty not a

“consideration.”

8. This section goes on to state that the Council does not take a moral stance in adopting this policy. It is unclear why it is necessary to point this out, it is unnecessary to declare a negative and is irrelevant.
9. Part 4 – Integration with other statutes
The council has a general duty to consider its responsibilities pursuant to section 149 of the Equality Act 2010 and have due regard to the need to:
 - a. Eliminate discrimination, harassment and victimisation.
 - b. Advance equality of opportunity between the sexes and
 - c. Foster good relations between the sexes.
10. In 2018 the High Court overturned Sheffield City Council’s last policy on SEVs. During the proceedings the Court endorsed the principle that the duty to promote or advance equality is a central obligation.
11. The court ruling also made it clear that when considering the PSED that everyone should be considered, not only those working in, visiting or in the general vicinity of the SEV. This drafted policy does not reflect this.
12. It must therefore be treated as a primary consideration when drafting the Council’s new policy on SEV licences and reflected in any arguments put forward by the council in formulating its policy. Although the PSED is referred to, stating that the policy “includes a clear and unequivocal commitment to meeting the PSED”, it is not in fact clear what that commitment is and what actions are being taken to combat the issues raised in the points below regarding the hyper sexualisation of women which is promoted by SEVs and the harm that this has on different groups and on society as a whole.
13. We would argue that in fact there is nothing that the Council can do which will ensure that the presence of SEVs in our city and within our communities does not have a negative effect, and that the Council’s duty under the Equality Act means that licensing SEVs is completely contradictory to its statutory duty to eliminate discrimination, harassment and victimization, to advance equality of opportunity between the sexes and to foster good relations between the sexes.
14. Although there is a whole paragraph regarding the Equality Act there is no reference to how the policy actually adheres to the legal responsibility of that duty. Nowhere in this new drafted policy does it state how licensing SEVs achieves the above listed statutory duties.
15. It is also not clear who delivers the training to the License Committee members or what would be included in this training. In the past members of the Licensing Committee have shown a shocking lack of understanding of the realities of the sex industry, ignored research presented to them by well respected experts in the field and simply taken everything that the

applicant has presented at face value. We would suggest that this training comes from an organisation such as Women's Aid, Saffron (Sheffield Women's Counselling Service) or SRASAC.

16. It is extremely difficult to give proper feedback on this section of the policy when we have not been given a copy of the Equality Impact Assessment. We would ask that this is shared as quickly as possible so that we can complete our feedback on the policy and the assessment itself. It is unclear, when the EIA is such an integral part of the policy, why it has not been distributed with the draft.
17. The most likely applicants for SEVS are lap-dancing clubs or so called gentleman's clubs, although Sheffield does facilitate a number of sex shops, but currently no sex cinemas.
18. Despite the clear shift away from the almost celebratory feel of the previous draft, this drafting of the policy still does not reflect the reality of this industry and there is no commitment in the policy to researching or understanding it. The business model is wholly dependent on extreme sexual objectification and yet there is still no acceptance of this fact.
19. It is also noted that when research and evidence has been presented to Licensing Team in the past, as part of submissions to hearings, this information has not been passed on to the Committee. If the Council is not going to find the research which has been carried out it must pass on the research which has been found by others to those making the decisions.
20. The Council's own investigation into Spearmint Rhino last year found over 200 breaches of their licence. Spearmint Rhino have always presented themselves as the "harmless fun" side of the sex industry, but the Council now know this to be untrue and the investigation highlighted that it is of paramount importance that the Council seek the opinions, knowledge, research results and evidence from differing sources, not just the industry itself, because they will obviously always present themselves in a positive light.
21. The lap-dance itself (normally taking place in a private booth, again as last year's investigation confirmed, although the club itself attempted to present otherwise) replaces consent with commodification by means of the exchange of money, and acts out the fantasy of the idealized subservient female. This is reinforced in the common areas of the venue by ensuring there is over-staffing of self employed dancers vying for attention. This is to give the idea of an abundance of submissive women available to the customers.
22. It is virtually impossible to imagine visitors to these clubs returning to their businesses in this city, without having reinforced ideas of women as

submissive sex objects. As a consequence women are more likely to be the victims of sexual harassment on the street and in the work place. Research by Eaves Housing into the effects of licensing as updated by the Met Police, found 3 years after 4 SEVs opened in 1 local authority, rape increased by 33% and sexual assault by 55%, plus there were increased levels of harassment in the area.

23. Studies have shown that objectification of women and sexual harassment are contributors to the gender pay gap, and impediments to women competing with men on a level playing field in the work place. See inter alia submission of 'Close the Gap' to Women and Equalities Commission inquiry into sexual harassment in the work place – March 2018.
24. A study by Plan International last year found that two thirds of young women aged between 14-21 have been sexually harassed in a public place in the UK.
25. There is also a recognized connection between domestic violence and a culture where men are encouraged to see women as sexual, submissive objects. Women's Aid for instance describes domestic violence as "deeply rooted in issues of power, control and inequality."
26. Although the policy states that the local authority must do all they can do to prevent crime and disorder in their area, without an understanding and acceptance that SEVs contribute to all the issues listed above, the Council cannot ensure that this is put into practice.
27. Sheffield City Council cannot ignore its obligations to promote equality nor can it legally avoid its responsibility to address all of these issues.
28. Part 5 – the process of applying for a licence
It is noted that the policy states that any objections received by the local authority which do not relate to grounds within the Act will be rejected, and it is accepted that the decision to grant or refuse a licence can only be made on the grounds within the Act. However, the policy needs to make it clearer what "rejected" actually means.
29. There must be a mechanism by which local individuals and communities can make their feelings regarding Sheffield hosting an SEV known to the committee, whether these fit within the legal definition of an objection or not. It is unreasonable to expect individuals, without legal training and of differing levels of education and understanding, to be able to write what amounts to a legal objection, and reject their thoughts and feelings if their statement is found to be legally lacking.
30. Without the above the Council could find itself in a situation where for example, 100 objections could be "rejected", not seen by the Committee, and the Committee make a decision based on their understanding that only a few people take issue with the licensing. There needs to be the

capacity to ensure the learning from these views help develop the policy and make licence application decisions which represent the community's values.

31. It is also noted that the draft policy does not include any specific structure for hearings. In order to ensure that these are carried out in a fair and equitable way it is essential that the policy includes a hearing structure. This should include timescales between license application and hearing, code of conduct for hearings, timescales for report and decision.
32. The policy should make it clear that hearings are to be held within 2 months of the license application, be in council rooms which are large enough to ensure that anyone wishing to attend can do so, and are to be open to the public.
33. Applicants and objectors evidence should be submitted to the committee and also be included in the pre-hearing report, which should also be made public. The pre-hearing report, including all the appendices, should be circulated to the applicants and all objectors, and also be made available on the Council website at least calendar 7 days prior to the hearing.
34. The hearing should be of a length that any objectors wishing to speak can do so, and that the applicant has enough time to present their case.
35. It is very important that it is emphasized within the policy that there should not be a presumption of veracity of the applicant. This has happened too often at past hearings, where the sub-committee has ignored evidence presented by objectors but taken everything presented by the applicant at face value.
36. The above should be included in a Code of Conduct, which should also be drawn up for all parties at the hearing: applicants; objectors and the sub-committee. This should include general behaviour, treatment of vulnerable persons and councillors conduct.
37. Part 6 – Policy in relations to Discretionary Grounds
We believe that the DBS checks should be enhanced rather than basic.
38. The list given for relevant individuals convictions, should state at the end that the presumption is that the license will not be granted, rather than it is unlikely.
39. Reports of unsuitability of a licence holder – this part of the policy should have a clear formal process with timescales. In the last year the Council have found themselves in a position where a very serious investigation was being conducted into breaches and possible unlawful activity at a SEV in the city, which was allowed to continue to operate, for several months, making a mockery of the 12 month licence. The policy needs to include what would happen should this situation arise again. We would argue that in this situation a licence is suspended, and operations halted whilst the

investigation is conducted. This would also mean that the emphasis was on the licence holder to assist with investigation as much as possible as they would be unable to trade.

40. Number of Sex Establishments

We welcome the inclusion of a nil cap for the centre of Sheffield, however the wording should be changed to “position” rather than “proposes” – the policy should make the position of the Council clear.

41. We would argue that the nil cap should be extended, to each area of Sheffield. If the right number for the centre is nil, communities outside of the centre should not have to deal with SEVs in their areas either.

42. By treating the centre differently to the rest of the city this risks creating a “sex industry district” within the city, which therefore gives the impression that the city is supportive of the existence of such an area.

43. The Council have made a distinction between the treatment of so called “new” licences (although legally every licence is a new licence) and licences which have been given previously. However our own legal advice has been that existing licence holders cannot be treated differently to applicants who have not made an application previously.

44. It is also the case that the Council cannot create what is in effect a monopoly for any existing SEVs, by presuming that those already holding a licence are the only companies whom would ever be granted a licence.

45. The policy therefore becomes a contradiction. If the Council believes that the right number of SEVs for the centre of Sheffield is nil, why would it continue to licence any SEVs? It appears that the Council wants to give the impression of doing the right thing, ie a nil cap, whilst in reality continuing with the situation as has been for some time. This makes a mockery of the nil cap. In short, the Council is trying to have its cake and eat it.

46. The policy needs to make it much clearer under what circumstances a licence will be refused. The last 12 months has seen a club which was found by the Council’s own investigation, to have breached their licence over 200 times and where the Council’s own staff recommended that the applicant should be considered to be unsuitable, still granted a licence. It is fair to say that this came as somewhat a surprise to all involved: the applicant; objectors; other councilors; and the local media. If a licence is not refused, even in these circumstances, it is difficult to see under what circumstances it would be refused. The policy needs to make it clear that the presumption will be on refusal if a licence is not strictly adhered to.

47. We would also add that if the Council believes that a company is indulging in tax avoidance that this would be taken into account when considering the licence application.

48. There should also be a presumption of refusal if it becomes clear that any SEV is not treating its staff, either by way of ignorance of policy or procedure or by means of non-payment, properly.
49. Discretionary Grounds – Location
The “will have regard to” should be changed to “will not license.” The Cultural Quatre and the Knowledge Gateway for Sheffield Hallam University should be added to the list of “use of other premises.”
50. It is unclear what the “nature of the premises” means seeing as the policy is only regarding SEVs, and we would argue that the presence of the SEV in the area, no matter the opening hours, is the relevant and significant factor. This sentence would appear to be superfluous.
51. Again the policy needs to be clear that each and every application is a new application and that each application should be treated as a fresh application and considered on its merits or negative consequences for the area.
52. Conditions – the policy needs to be more precise in its instruction, and should read “Management of sex establishments *must* ensure that all members of staff working in a licensed premises are fully aware of the conditions.”
53. The theme of needing to be more precise in instruction continues throughout the policy. The policy should not be open to interpretation.
54. Part 7 – Policy in Relation to Safeguarding
Again the words “are expected to” should be replaced with the word “must.” “Periodically” should be replaced with a specific timescale, we would suggest 6 weekly. Whilst we welcome the comprehensive list for welfare visits, this check should not be carried out by management of the premises. Again whilst we welcome the new emphasis on safeguarding, the fact that there is an acceptance of the need for sexual health advice, condoms and signposting to domestic violence services, surely underlines the link between this industry and these social issues.
It also needs to be clear who will review the report, who will decide whether this needs to be reviewed by the sub committee, what criteria will be used to make this decision? These are all questions which need to be answered, if not in the policy itself, in an appendix to it.
55. We would also add that the Council should provide a service for women wanting to exit the industry and that information regarding this, and other exit services, should be included in the information available to staff.
56. Whilst we welcome the new emphasis on safeguarding, it must be pointed out that it is unusual for any workplace to need to have this much emphasis on safeguarding, which intrinsically supports the view that SEVs and particularly strip clubs are inherently dangerous places to work. It is

also noted that whilst there has always been a denial from both the SEVs themselves and via the licensing of them, the Council, the Council now seems to be accepting that there is a link between strip clubs, unsafe sex, and prostitution. If this were not the belief of the Council it would not now be offering training from SWWOP plus the information that it is now proposed is made available to the women working there. It therefore stands to reason that the question must be asked that if the Council now accepts this link, why would they continue to licence such establishments?

57. It is a high-risk industry where women are asked to work in degrading and dangerous environments which expose them to prostitution and trafficking. It is the business practice of all lap-dancing clubs to engage the dancers on a self-employed basis rather than as employees. As a result they have no employment protection including statutory sick pay or holiday pay pursuant to the Working Time Directive. It is the very reason, due to the high risk nature of the industry, that the Government decided to allow local authorities more discretion under the regulations as to whether they wanted SEVs in their areas, and yet the Council has chosen their own blindness to those realities, even when their own investigation has shown these to them.
58. Part 8 – Enforcement
The title of this part of the policy is misleading as the emphasis is very much on supporting the continuation of the licence rather than the enforcement of the licence conditions.
59. The complaints procedure should be formalised.
60. Although we welcome the new emphasis in this policy, it is still lacking in real understanding and real action for Sheffield. Although it includes a new acceptance of some of the issues, it also accepts the continuation of those issues, because it only provides some mitigation for the risks that those issues bring with them. The Council could, and should, take the responsibility of taking the decision to eliminate the risks by declaring itself an SEV free city.

Women's Equality Party
Sheffield Branch
February 2020

Although some of the sections in this document are repeats of our previous submission please ensure that this submission is seen as an addition to our submission of October 2019, not as a complete replacement.

From: [REDACTED]
To: alerts@subscriptions.sheffield.gov.uk; [licensing@sheffield.gov.uk](#)
Subject: Re: Sex Establishment Policy Consultation - Updated Draft
Date: 23 February 2020 18:53:06

Dear Licensing

We support the responses made by WEP, Not Buying It Sheffield and Zero Option.

Best wishes

Women of Steel

Zero Option Response to v .02 DRAFT Sex Establishment Policy

Zero Option welcomes the decision to set a nil cap to the number of sex establishments in Sheffield City Centre.

We would recommend (1) that the same considerations that informed the decision to set a nil cap in the City Centre should be applied to all areas within the city of Sheffield and that the revised Sex Establishment Policy should reflect this with a nil cap set for each specific area. There should be a clear effort made not to privilege an area which is less disadvantaged than other areas such as, for example, Attercliffe, where we note there is a proliferation of establishments known colloquially as massage parlours.

We note that it is proposed that

‘Existing establishments are exceptions to this number and therefore that this presumption-(that any new application for any type of sex establishment licence shall be refused)-does not apply.’ Yet one underpinning principle of the Licensing regulations is that a fresh eye should be cast on renewals and they should not be granted tacit approval without the same scrutiny as a new application: circumstances can and will change during the period a licence is held and thus full scrutiny is required. There is a requirement for Licensing to review each renewal as well as any future applications, but no obligation to effectively automatically renew.

We recommend (2) that the above phrase should be removed from the revised Policy and (3) a section be added to clarify that licence renewal applications will be viewed with ‘a fresh eye’ as rigorously as new applications as circumstances may change within the period covered by a licence. For example, community views may change and the sex establishment licensing law was drafted to allow each local authority to address the views of their relevant communities.

Given that the Council considers that no sex establishments are appropriate for the City Centre, then logically using the same reasoning it cannot be appropriate to grant any further licences within that area, whether or not they are new or renewal applications. Thus we recommend (4) that there should be a presumptive rebuttal for licence renewals within the City Centre. This does not preclude a Licensing Hearing for each renewal application, but similarly to the situation for new applications, where a presumed rebuttal is proposed, the same principle will be applied to renewal applications.

Part 2 of the revised Policy lists what the Council wishes to promote in the Policy but omits any concern about the safeguarding of children under 18 in the locality of sex establishments. Having a Sexual Entertainment Venue in Sheffield effectively gives everyone, including children and young people, the message that it is acceptable to objectify women as sex objects, and much research evidence shows that men who hold more objectifying views of women and girls are more likely to be violent to them. Thus it cannot be ignored that this is a safeguarding issue. The Policy includes a wish to promote the safeguarding of vulnerable adults in the locality of sex establishments: (5) it should also include children and young people

Part 4 of the Policy states

‘The Council considers that it would not be in the public interest, for reasons of public safety, for tacit approval to apply with regards to applications for sex establishments.’

We would agree that violence against women and girls is endemic and sex entertainment venues and pornography promote both the objectification of women and, via the related dehumanisation of women, are linked to violence towards women and girls. This will have an effect on men who do and men who do not visit sex establishments: the harm caused affects the whole community. Awareness of porn and SEVs is widespread, including amongst children.

We note there is a new section in the revised Policy on safeguarding. We welcome the implicit recognition that sex establishments are inherently harmful- if this was not understood, then there would be no need for a whole section on this. However, there is no escaping harm where there is porn- and strip clubs can be considered to be a form of porn-porn in the flesh, rather than for example on film or in print. The harm is in the objectification that women performers in clubs or in front of a camera undergo, as this involves dehumanisation. This requires a mind-body split, called psychological dissociation. Undergoing this psychological process repeatedly causes psychological trauma-complex post traumatic stress disorder. Often when women are involved in performing they do not recognise the adverse psychological effects on them-similarly to women in abusive relationships, who often only come to an understanding of the trauma they have experienced once they are outside the harmful situation and have left their abusive partner: this is a survival mechanism. We recommend (6) that if the Council wishes to do what is in its power to do to reduce violence against women and girls, it would set a nil cap to the number of sex establishments it will licence in all areas of our city.

We recommend (7) that Part 7 states that there should be a minimum of six unannounced safeguarding visits to sex establishments annually, which should be during their operating hours. Details of exactly what should be checked and by which team should be given.

We query why SWWOP (Sheffield Working Women's Opportunities Project) is to be contracted to train SEV managers, given that SWWOP works with street prostitutes and prostitution within SEVs would render the SEV to be a brothel, and prostitution and operating a brothel is illegal. Sexual contact is prohibited in SEVs.

The Safeguarding section also requires SEVs must make information on public health support services available to workers-this alludes to sexual health and contraceptive services, which are funded by Local Authorities who run Public Health Departments rather than the NHS. Literature including on information on sexual health must be displayed. The Welfare Checklist requires condoms must be available in staff and customers' toilets and that sexual health self-test kits should be available to staff and customers. Although sexual contact is not permitted there seems to be a double standard in operation as all of these provisions indicate there is an understanding that it does indeed occur. We wish to point out that this was what the Private Investigators who visited Spearmint Rhino strip club uncovered recently but surely the Council would not wish to appear to be acknowledging that this is continuing by introducing these mitigating measures.

The Safeguarding section requires specific information on sexual health, safeguarding concerns, substance misuse, sexual and domestic abuse, debt and financial management and mental health to be available for staff. This suggests that sex establishments are particularly likely to attract and employ vulnerable people as other workplaces do not have such requirements. Indeed, research has shown that poverty is a major driver for women to go into the sex trade. Women use drugs and drink to enable them to continue in the trade for their mind-numbing effects to enable them to cope

with the associated psychological distress. At Spearmint Rhino's last Licensing Hearing it was distressing to hear the testimonies of so many performers at that club who had experienced sexual abuse: this should be raising a red flag with the licensing Committee and raising questions about why sexually abused young women would be involved in sexually performative public venues. No amount of information can counter the inherent harm of the sex trade. Again, we recommend a nil cap be set for sex establishments in all areas in Sheffield to promote the health and wellbeing of women and girls.

We recommend that a whistleblower system be set up within the Licensing Department for sex establishment workers to contact in confidence for all work-related matters of concern (8).

We recommend (9) in Part 7 that sex establishments should also be required to display information about groups which are critical of the sex trade, rather than just those which are supportive, such as Not Buying It, an organisation that campaigns against the sexual exploitation of women and girls and supports ex-dancers and Nordic Model Now!, a campaign group that campaigns for the criminalisation of pimps and punters and is against the criminalisation of sex workers. Information about exited dancers' support groups should also be provided. Many women in the sex trade recognise its inherent harm but feel powerless to leave: contact with these groups can be the first step in empowering them to exit the sex trade.

Alongside efforts detailed in this revised Policy to mitigate the inherent harms of sex establishments we recommend (10) that Sheffield Council develops a specialised service to support women exiting working in porn and sexual entertainment venues.

In Part 2 it states that the Council recognises that Parliament has made it lawful to operate sex establishments (11) in the interest of balance and openness it should state that the law also allows the Council to set a nil cap to the number of sex establishments allowed in any and all particular areas within the Local Authority boundary.

Part 2 also states the Council does not take a moral stance in adopting this Policy. (12) To avoid misunderstanding, moral in this context should be defined or preferably omitted as it has been the cause of misunderstanding and /or misinterpretation at previous Hearings (for example, being erroneously linked with implied religious beliefs and has been used to mischaracterise objectors) and the dictionary definition of moral is merely with regards to passing judgements as to whether something is 'Good or bad, right or wrong, inappropriate or appropriate etc'

It is noted that the Equality Impact Assessment (EIA) alluded to in Part 4 is not included in the revised draft. Thus it is impossible to comment on it, which is crucial in ensuring that the Council has taken appropriate consideration of all relevant matters under its obligations under the Equality Act. With only a 4 week consultation period allowed for this draft, there is insufficient time to obtain the EIA under an FOI request, so full consultation on this draft Policy has not been possible.

Part 4 states that the revised Policy should be

'kept under regular review, particularly in the early period of implementation...'

We recommend (13) that a clear review period should be stated and recommend initial review in one year, given the need to ensure that the enforcement provision in the Policy, which is a new area

and thus needs a period of operation to test its suitability and an opportunity for timely review, is fit for purpose.

The section about the Human Rights Act in Part 4 refers to Article 1-pointing out that a licence is a person's possession. We recommend that it should be added to the discussion about this Article in the interest of balance and clarity that it is not a breach of the Human Rights Act to deny a licence, as long as the relevant Licensing law is followed.

We recommend (14) that in Part 5 where those who can object are listed, that this also includes 'people who do not live in Sheffield'

We recommend (15) that the Licensing Committee should at all times strive to keep itself informed of the views of the community, so it should have a process whereby objectors can contact the Committee with any objections they have to sex establishments: circumstances change. Thus when License applications are considered current community views can be borne in mind and the Committee should be able to demonstrate that it is being representative of community values. This should be reflected in the revised Policy.

Further clarity of the pre-Hearing process is required. We recommend (16) that should the applicant submit evidence to the committee following receipt of the report, this evidence should be circulated to all objectors a minimum of 10 days before the Hearing, to allow a reasonable amount of time for due consideration prior to the Hearing.

We recommend in Part 5 a statement be included that all sex establishment licence applications, both new and renewal applications, should be decided through a Hearing (17) , including a clear commitment to allowing all objectors to speak at Licensing Hearings (18) and that these should all be open to the Public (19).

We recommend in Part 5 that a statement should be added that objections should always be presented to the Licensing Committee in full, rather than in summary (20). It is important that for a fair process to be done and to be seen to be done, the Licensing Councillors are aware of all views when deliberating on Licensing decisions.

We recommend (21) that those who Chair Licensing Hearings have good quality training in chairing. At a previous Hearing we have seen a vulnerable witness being humiliated by a barrister without the Chair stepping in. This will undoubtedly put others off speaking.

We recommend (22) training for all Licensing Councillors to enable them to give a greater degree of scrutiny of evidence presented at Hearings, especially given that solicitors and barristers may be involved in proceedings. Training should also be given on the whole spectrum of violence against women and the physical and mental health effects of this (23).

We recommend (24) in Part 6 that enhanced rather than basic Disclosure and Barring Service certificates should be obligatory for all managers of sex establishments. These should be processed independently of the sex establishments.

In Part 6 it states that If the applicant has previously been involved in running an unlicensed sex establishment or it will be managed by or run for the benefit of someone who would be refused a

License, then the 'application will likely be refused.' We recommend (25) there should be a presumption that it will be refused.

We recommend that in Part 6 it is added that applicants who withhold or who have withheld payment to staff in sex establishments and this includes refusal to cash chips earned by workers within establishments for which they hold the licence, should automatically be deemed unsuitable to hold a Licence (26). Likewise Licence holders of sex establishments which are involved in tax avoidance or evasion should automatically be deemed unsuitable to hold a licence (27).

We recommend that there is greater clarification of the discretionary grounds for refusing a license. Sections i) and ii) propose a list of various places and areas that will be considered in the proximity and vicinity of a sex establishment. This includes schools, hospitals, sexual abuse centres- effectively places used by children and vulnerable adults. If these important community places are nearby we recommend that a License should NOT be granted (28). This matter is lawfully at the discretion of each Local authority to decide and thus it would be lawful in this situation, should the Council so choose, for this to be incorporated into the Policy's lawful discretionary conditions.

In Part 6 ii) re use of other premises in the vicinity of sex establishments we recommend (29) that universities, the Knowledge Gateway and corridor and the Cultural Industries Quarter should be added to the list of premises the Licensing Authority should have due regard to when considering a License application. The Vice-Chancellor of Sheffield Hallam University has made his university's objections to being adjacent to a sex establishment, a sexual entertainment venue, very clear.

Part 8 of the revised Policy is weak. It has the effect of, and appears to be designed with the clear intent of, enabling establishments where there are concerns to continue to operate. There is no detailed provision to guide management by the Licensing Department where there have been significant serious problems, for example multiple Licensing breaches and /or unlawful sexual activity, as we have seen with Spearmint Rhino in the past year.

We recommend (30) that a set of clear graded responses should be outlined according to the nature and severity and number of concerns: for example, it may not be appropriate to allow an establishment to continue to operate or its operation may require suspension pending further investigation and this should be set out clearly. The need for this has been clearly identified in the reports from the Private Investigators who visited Spearmint Rhino which the Licensing Department has been provided with.

Zero Option welcomes the implicit change in emphasis in this revised Policy to recognition of the inherent harm posed by the objectification of women, whether it is in magazines, on film or in the flesh. Safeguarding has been given a major emphasis but as the Policy states, it is an attempt to 'mitigate' harms. Within this statement is a recognition that harm cannot be totally abolished: indeed psychological trauma is inescapable for anyone performing in the sex trade. For men and boys it has the effect of promoting dehumanising views of women, associated with an increased likelihood of those men who hold dehumanising objectifying views of women being violent towards women. Licensing such places is not in keeping with the Council's obligations under the Public Sector Equality Duty and as such is, in effect, unlawful.

It is now time for Sheffield Council to take a stand for women and girls and for men and boys and to set a nil cap throughout the city (31): to do otherwise is to effectively knowingly condone violence against women and girls and is a clear dereliction of the Council's obligation under the Equality Act to foster good relations between the sexes.

We would be happy to discuss our recommendations further and to provide supporting evidence and information.

Zero Option, Sheffield 21/02/2020

Sheffield **Not**
Buying
It

Comments by Not Buying It Sheffield made inline using tracked changes and highlighted in green and in the review margin

Draft Sex Establishment Policy Incorporating Sexual Entertainment Venues, Sex Shops and Sex Cinemas

Licensing Service

Document Control

Version	Date	Comments
V.01	5/4/19	DOCUMENT SENT FOR CONSULTATION
V.02	5/11/19	Updates following end of consultation

	Page
Part 1 - Introduction	#
Part 2 - Overview	#
Part 3 - Consultation on this Policy	#
Part 4- Integration with other Statutes	#
Equality Act 2010	#
Human Rights Act 1998	#
Provision of Services Regulations 2009	#
Crime & Disorder Act 1998	#
Part 5 - The process of applying for a Licence	#
Making an Application	#
Objecting to Applications	#
Determination of Applications	#
Mandatory grounds for refusal	#
Discretionary grounds for refusal	#
Appeals	#
Part 6 - <u>POLICY IN RELATION TO DISCRETIONARY GROUNDS</u>	#
Discretionary Grounds a & b:	#
Suitability of the Applicant, Manager & Beneficiary Policy	#
Discretionary Ground c:	#
Number of Sex Establishments	#
Discretionary Ground d:	#
Location	#
Conditions	#
Representations	#
Waivers	#
Part 7 - <u>POLICY IN RELATION TO SAFEGUARDING</u>	#
Part 8 - Enforcement	#
Better Regulation Delivery Office: Regulators' Code 2014	#
Complaints	#
Data Sharing	#
Part 9 - Parallel Consent Schemes	#
The Licensing Act 2003 (the 2003 Act)	#
Planning and Building Regulation Control	#
Part 10 - Definitions	#
<u>Appendix A</u> <u>Checklist for Regulatory & Welfare Visits to Sex Establishments</u>	

Part 1 – INTRODUCTION

~~Licensed sex establishments in Sheffield contribute to the recreation, entertainment and night-time economy and provide an additional appeal to residents, tourists, visitors and the students that attend the two universities.~~

~~To promote a vibrant city the Licensing Authority regulates the scale, diversity and concentration of all licensed entertainment in an open, fair and legal manner.~~

This policy provides the Council's approach to the regulation and licensing of sex establishments which incorporates sexual entertainment venues, sex shops and sex cinemas, as set out in the Local Government (Miscellaneous Provisions Act) 1982 as amended by the Policing and Crime Act 2009, within the City of Sheffield.

~~The policy provides a framework to assist applicants and decision makers in making and considering applications and ensuring all relevant factors are given proper attention.~~

Comment [AB1]: We welcome the removal of these statements

Part 2 – OVERVIEW

The Council's Sex Establishment Policy ("the Policy") sets out the Council's approach to the regulation of all types of sex establishment and the procedure relating to applications for sex establishment licences.

The sex establishments this policy applies to are:

- sexual entertainment venues
- sex cinemas
- sex shops

The Council is committed to applying the law and policy to promote:

- High management standards at licensed sex establishments;
- Public safety of staff, performers and patrons at sex establishments;
- Safeguarding of staff, performers and patrons at sex establishments; and
- Safeguarding vulnerable ~~persons~~ adults working in the establishments, visiting as customers or in the locality of sex establishments.

The aim of this policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application, South Yorkshire Police and members of the Licensing Committee when determining an application.

This policy will be kept under review and revised where necessary.

Each application will be dealt with on its own merits on a case-by-case basis.

Consideration will be given to the Equality Act 2010, the Human Rights Act 1998, the Provision of Services Regulations 2009 and the Crime and Disorder Act 1998 and the Home Office Guidance for England and Wales on Sexual Entertainment Venues (March 2010).

The Council does not take a moral stance in adopting this policy. The 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 industries, and it~~ is the Council's role as the Licensing Authority to regulate such premises in accordance with the law.

Comment [AB2]: It is concerning that any vulnerable adult would be working in a sex establishment given the nature of this industry and the harms on the women who work there, as has been shared with campaigners from women in the industry or who have left.

Comment [AB3]: Will this also be subject to consultation? How much change can be made to this policy without consultation with the public and Licensing committee approval?

Comment [AB4]: Surely it is more than "consideration" as this is statutory legislation which the Council is subject to.

Comment [AB5]: Superfluous comment, especially given the judge's comments when granting permission in the 1st JR? Also no definition of the word moral provided

Part 3 – CONSULTATION ON THIS POLICY

This policy was subject to a 12 week consultation.

It is now subject to a further 4 week consultation.

Part 4 – INTEGRATION WITH OTHER STATUTES

There are a number of statutory provisions which apply to every action the Council takes as a public authority. These include, but are not limited to:

- the Equality Act 2010;
- the Human Rights Act 1998;
- the Provision of Services Regulations 2009; and
- the Crime & Disorder Act 1998.

Equality Act 2010

This Act legally protects people from discrimination in the workplace and wider society. This includes the Public Sector Equality Duty (PSED), which means that the Council must thoroughly consider, in the discharge of its licensing functions, the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This applies for this policy and to the consideration and determination of applications for sex establishments.

This policy includes a clear and unequivocal commitment to meeting the PSED in the exercise of all of the functions under the Act. The policy and the documentation flowing from it are intended to be a key means of facilitating compliance with all of the Council's obligations. Great care has been taken in developing a policy that is fit for purpose in this regard but it is only when it is tested in action that it will be possible to evaluate its effectiveness. This assessment will be kept under regular review, particularly in the early period of implementation, so that any shortcomings identified in the document itself and/or the way it has been implemented can be addressed.

Licensing Committee Members have undertaken equality and diversity training and will be reviewing their learning on a regular basis to ensure their knowledge and understanding of all matters concerning equality and diversity are at the highest standard to allow them to make decisions.

Equality Impact Assessment

A detailed Equality Impact Assessment (EIA 556) has been undertaken and kept under review throughout the drafting of this policy, the consultation process and then finalised on publication of the attached to the policy document when it was submitted to the Licensing Committee for approval. Further EIA's will be conducted where necessary.

Comment [AB6]: Does this refer to the EIA? Who is responsible for reviewing it? It is very hard to comment fully on this in the absence of an EIA. In the past, EIAs have made reference to papers which support the sex trade and lapdancing without providing any balance. Please ensure that the Committee has the paper prepared by Sheffield NBI which refers to all the literature and articles which evidence the harms of the industry to allow them to make a fully informed decision and to take a more balanced view on the industry. Any other such research references by other objectors should also be put in full before the committee as this was an issue in the judicial review of 2018.

~~It is not considered likely that the equalities obligations are at risk as there is no perceivable risk of unequal access to the services between different equality groups, save for those under 18.~~

~~The EIA has informed the development of the policy to mitigate outcomes considered to be potentially harmful.~~

Human Rights Act 1998

Incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way which is incompatible with a convention right. The Council will have particular regards to the following relevant provisions of the European Convention on Human Rights:-

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

Provision of Services Regulations 2009

These Regulations require that applications are processed as quickly as possible and, in any event, within a reasonable period. The Regulations also specify that in the event of failure to process the application within the period or as extended in accordance with the provisions of these Regulations, the authorisation is deemed to be granted (tacit approval) by the Council, unless different arrangements are in place.

The Council considers that it would not be in the public interest, for reasons of public safety, for tacit approval to apply with regards to applications for sex establishments.

The Regulations also state that any charges (fees) provided for by a competent authority, which applicants may incur under an authorisation scheme, must be reasonable and proportionate to the cost of the procedures and formalities under the scheme, and must not exceed the cost of these procedures and formalities.

The Regulations suggest that all fees within the scope of the Directive be separable in two parts.

Firstly, the pre-application costs; mainly the administrative costs incurred when dealing with the application from when it is first received up until it being determined (issued/refused).

Secondly, the on-going costs; monitoring and enforcing the terms and conditions of that licence. This is to show clearly which part of the fee is repayable should an application (applicant) be unsuccessful.

Crime & Disorder Act 1998

Under this Act, Local Authorities must have regard to the likely effect of the exercise of their functions, and do all that they can to prevent crime & disorder in their area. This policy will have regard to the likely impact that the granting of licences may have on related crime and disorder in the city.

Comment [AB7]: It would help to have seen this with this draft and to comment on the mitigating outcomes. I hope it acknowledges that the sexual objectification is harmful to all, in particular women and girls. Evidence of this has been provided in Sheffield Not Buying It's response in the first stage of this consultation process

Comment [AB8]: Guidance by human rights law expert Dr James Harrison, Director of the Centre for Human Rights in Practice at the University of Warwick, confirms that refusal to renew is not a breach of human rights law
<https://coventrywomensvoices.wordpress.com/2011/09/23/sex-entertainment-venues-and-the-human-rights-act>

/

Part 5 – THE PROCESS OF APPLYING FOR A LICENCE

Making an Application

The Act provides a maximum licence period of one year. The Authority may grant a shorter licence if it sees fit. A shorter period may be granted for example, where a licensee wants a licence for a limited period for a trade exhibition or a show.

An application for the **grant, variation, renewal or transfer** of a licence must be made in writing to the Licensing Authority together with the application fee in accordance with the requirements set out below.

There are three separate notice requirements:

[1] The applicant must, within seven days after the date of the application, publish an advertisement in a local newspaper circulating in the local authority's area. A suggested form of advertisement is available on request from the Licensing Section.

[2] Where the application is in respect of a premises, the applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of application. Again a suggested form of notice is available on request.

[3] The applicant must send a copy of the application to the Chief Officer of Police no later than seven days after the date of the application. Where the application is made electronically it is for the local authority itself to send the copy within seven days of receipt of the application.

The application form can be used for grant, variation, transfer and renewal applications. Applicants must provide their name, address, age (where the applicant is an individual), the premises address and the proposed licensed name of the premises.

Applicants must, at the time of submission of a new grant, renewal or variation application, provide:

- a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises.
- details as to the exact nature, extent and scope of the business for consideration by the Licensing Authority.
- a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority (SEV's only).
- a copy of the codes of practice for performers, the rules for customers and the policy of welfare for performers (SEV's only). Such documents will form part of the licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.

Comment [AB9]: Given the CCTV debacle in the VIP rooms at Spearmint Rhino, this should also be clearly marked on any plans

Please refer to Part 7 – Policy in Relation to Safeguarding for information on resources available in designing such codes of practice, rules and welfare policies.

Officers of the Licensing Authority may, as part of the application process, visit the relevant locality of the premises to establish whether there are any characteristics of the locality which may require consideration by the Licensing Committee.

Objecting to Applications

The Act permits a wide range of persons to raise objections about the **grant, renewal, variation or transfer** of a licence. Objectors can include residents, resident associations, trade associations, businesses, Councillors or local MPs. South Yorkshire Police are a statutory consultee for all applications.

Objections must be made in writing (email is acceptable) no later than 28 days after the date of the application to the Licensing Authority and should include the following:

- the name and address of the person or organisation making the objection; and
- the premises to which the objection relates.

~~the proximity of the premises to the person making the objection, a sketch map or plan may be helpful to show this.~~

Comment [AB10]: We welcome the removal of this for reasons stated in our submission during the first stage

Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the Act. The relevant grounds of objection are:

- That the applicant is unsuitable to hold a licence;
- That the licence, if granted, would be carried on for the benefit of person/s who would be refused a licence if they had applied themselves;
- That the layout, character or condition of the premises are inappropriate for the proposed establishment;
- That the use of the premises as a sex establishment would be inappropriate due to the use of premises in the vicinity;
- That the use of the premises as a sex establishment would be inappropriate due to the character of the relevant locality; and / or
- That the number of sex establishments or sex establishments of a particular type is inappropriate in the relevant locality.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the Act will be rejected by the Licensing Authority.

Objections will be considered by the Licensing Sub-Committee determining the application. The applicant will be informed of any objections received in respect of their application and the objection(s) will become public documents. ~~(However, e~~Objector's personal details such as name, ~~email address,~~ address and telephone number will be removed.)

~~Any organisation, MP or councillor objecting in their capacity as such will not have their organisation's name/name redacted~~

A copy of the hearing procedure will be sent to the applicant and any objectors prior to the hearing.

~~Some authorities conduct site visits as part of the licensing process and this would be welcome in Sheffield. If sub-committee members visit the premises that they are considering the licence of. Furthermore, the chairing needs to be really robust. In past hearings, an former dancer was traduced at a hearing and the chair should have intervened. Similarly, last year, supporters were allowed to continue making scurrilous claims about objectors when the chair had stipulated that all must remain respectful throughout proceedings. There also needs to be more interrogation of the applicant statements/witness statements which in the past have been taken at face value yet objectors have drawn to Licensing's attention via witness statements and a "Referral inaccuracies within such statements"~~

Determination of Applications

All applications for the grant of a sex establishment licence will be determined by the Licensing Sub-Committee.

~~Valid objections to any application will be considered by the Licensing Committee or delegated to a Licensing Sub-Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing Committee's procedure for hearings, which is available from the Licensing Service.~~

The Act provides five mandatory grounds and four discretionary grounds for refusal of a licence. Each application will be decided upon its own merits and the Licensing Authority will give clear reasons for its decisions. Any decision to refuse a licence MUST be relevant to one or more of the following grounds:

MANDATORY GROUNDS FOR REFUSAL

Specific mandatory grounds for refusal of a licence are set out in paragraph 12(1)(a to e) of Schedule 3 in the 1982 Act. A licence cannot be granted:

- (a) to any person under the age of 18 years;
- (b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that 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.

DISCRETIONARY GROUNDS FOR REFUSAL

The only discretionary grounds upon which the Council may refuse an application for the grant or renewal of a licence on one or more of the grounds specified in Schedule 3 paragraph 12(3) are that:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
- (b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he/she made the application himself/herself;
- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for the locality;
- (d) the grant or renewal of the licence would be inappropriate, having regard:
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Licensing Sub-Committee Application Determination Hearings

Valid objections to any application will be considered by the Licensing Committee or delegated to a Licensing Sub Committee at the hearing to consider the application.

Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing Committee's procedure for hearings, which is available from the Licensing Service.

A Licensing Committee Hearing report will be prepared and will include the application papers and any and all details of objections received during the consultation period.

Information identifying objectors will be redacted from the report.

The hearing report will be circulated to all parties to the hearing as soon as practicably possible and at the latest, 21 days before the date of the hearing.

Should the applicant wish to submit evidence to the committee following receipt of the report, they must ensure it is submitted as soon as practicably possible and at the latest, 14 days before the hearing and be made available to all interested parties with any sensitive information redacted.

Following the hearing, a written determination will be sent to all parties notifying of the decision and the reasons.

Appeals

There is a right of appeal to the Magistrates' Court against decisions for the refusal to grant, renew, vary or transfer of a licence, the imposition of conditions and revocations may also be appealed.

Appeals must be made to the Magistrates Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.

It is important to note that appeals only lie against the mandatory refusals on the basis that the mandatory ground does not apply to the applicant/licence holder. Further, no appeal lies against the Licensing Authority's decision made on the discretionary grounds namely:

- that it is inappropriate to grant or renew a licence on the grounds of the character of the locality or the number of premises in it; or
- the use of premises in the vicinity or the layout, character or condition of the premises.

The only discretionary grounds against which an appeal lies are those relating to the suitability of the applicant, the manager and/or the beneficiary of the operation.

There is no right of appeal to the Magistrates' Court for the police or objectors.

Comment [AB11]: As we know from experience, it is quite complex to apply the strict criteria to objections and this can be a barrier to making objections. We feel at the very least that any objection should be counted numerically within the total number submitted otherwise it can exclude some groups of people from having their voices heard which is anti-democratic

Comment [AB12]: See added sentence highlighted in green

Part 6 -- POLICY IN RELATION TO DISCRETIONARY GROUNDS

Discretionary Grounds a & b: SUITABILITY OF THE APPLICANT, MANAGER & BENEFICIARY

The Licensing Authority needs to be satisfied of the suitability of the following persons relevant to the application:

- (a) the applicant;
- (b) each of the partners (if a partnership);
- (c) each of the directors, secretary or other persons (if applicant is a company);
- (d) each of the managers;
- (e) each person the business will benefit. This includes third parties such as funders and suppliers where the arrangements are not on normal arm's length commercial terms or any persons who may share in the profits.

The provision of a management structure as part of the application will assist the Authority in determining suitability.

In order for the Licensing Authority to be satisfied that the relevant individuals are suitable to operate a sex establishment, a basic Disclosure and Barring Service Disclosure Scotland (DBS) certificate that is dated no earlier than 5 weeks prior to the application being submitted should accompany the application.

Comment [AB13]: This should be an enhanced DBS check. Who will do the DBS check? Who does it for taxi licences?

Where the relevant individuals have convictions for:

- (a) dishonesty;
- (b) violence, including civil orders for domestic abuse as well as convictions for violence (including domestic violence) stalking, harassment, coercive control and other offences against women that may be passed in future legislation;
- (c) sexual offences;
- (d) drugs;
- (e) public order; or
- (f) people trafficking;

it is unlikely that a licence will be granted.

Comment [AB14]: We would like to see this strengthened and that a licence will not be granted under these circumstances rather than "it is unlikely . . ."

Further,

- if the applicant has previously been involved in running an unlicensed sex establishment; or
- if the licence were to be granted, the business to which it relates would be managed by or run for the benefit of a person other than the applicant who would be refused the grant of such a licence if they made it themselves;

the application will likely be refused.

The Licensing Authority needs to be satisfied that those applying for a licence for a sex establishment (individuals detailed above) are suitable to operate the business by ensuring:

- (a) that the operator is honest;
- (b) that the operator is qualified by experience to run the type of establishment in question;
- (c) that the operator fully understands the licence conditions;
- (d) that the operator is proposing a management structure which will deliver compliance with licence conditions;
 - i. managerial competence;
 - ii. attendance at the premises;
 - iii. a credible management structure;
 - iv. enforcement of business rules (internal) through training and monitoring;
 - v. a viable business plan (e.g. sufficient to employ door staff and install CCTV (SEV only)); and
 - vi. existing policies in place for the welfare of staff, performers and patrons (SEV only)
- (e) that the operator will act in the best interests of the staff and performers, in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored (SEV only).

It is anticipated that the above expectations will be demonstrated by the operator through their completed application form, accompanying documentation, and disclosure certificates as part of the application process.

Reports of unsuitability of a licence holder made during the term of a licence

Where reports are received by the Licensing Authority during the term of a licence that evidence harm to women in or around sexual entertainment venues, the licence will be referred to the Licensing Sub-Committee to determine whether the licence holder, manager or beneficiary remain suitable to hold the licence.

Comment [AB15]: What process does the Council envisage for this to happen without having a protracted period where the establishment continues to operate regardless of the risks posed to women in or around?

Discretionary Ground c) NUMBER OF SEX ESTABLISHMENTS

The Act allows local authorities to impose numerical control on the number of sex establishments within a particular location; this can be to the number overall and the number of each kind and allows that the appropriate number may be nil.

The Council proposes that the appropriate number of sex establishments for the Sheffield City Centre¹ is nil.

Comment [AB16]: This is a really welcome development, however, could this be strengthened to "The Council's position is . . ." rather than "The Council proposes"?

There shall therefore be a rebuttable presumption that any new application for any type of sex establishment licence shall be refused.

Existing establishments are exceptions to this number and therefore the presumption does not apply.

Comment [AB17]: Based on legal advice given it is not clear why this is.

The number of licensed establishments in Sheffield at the time of writing this policy is:

Sexual Entertainment Venue	Sex Shop	Sex Cinema
<u>2</u>	<u>2</u>	<u>0</u>

The aim must be for a clear policy statement that confirms (i) that there can be no expectation of automatic renewal see: Turner J in R v L B Wandsworth ex p Darker Enterprises Ltd (1999 WL 478089) set out a general principal (3) in Oxford v Thompson (HC) para [50]

Should any operator that currently holds a sex establishment licence, surrender their licence or have it revoked, there shall be a rebuttable presumption that the licence will not be replaced.

The presumption shall not apply to the renewal or variation of an existing sex establishment licence, however, renewals and variations will not automatically be granted.

It is inherently inconsistent and unreasonable to have a policy that does not treat new and existing clubs' applications the same in terms of the rebuttable presumption of a nil limit. We can see no good reason for this and we note that the Council has not even attempted to articulate one. The Council clearly recognises that there should be no SEVs in the city but fails to address the very existence of such an establishment; there is no rational justification for this.

Any application will be considered on its merits at the time the application is determined by the local authority.

Also see Camden's new approach to renewals:
<http://camdennewjournal.com/article/last-dance-councillors-back-tougher-regime-for-strip-clubs>

¹ Sheffield City Centre is defined by the "This is Sheffield - Sheffield Our City Centre Plan 2018-28".

Discretionary Ground d) LOCATION

The Act permits applications to be refused:

- i. where the grant would be inappropriate having regard to the character of the relevant locality;
- ii. where the grant would be inappropriate having regard to other premises in the vicinity;
- iii. on the basis of the layout, character or condition of the premises.

i) Character of the relevant locality

The Licensing Authority will have regard to, but not limited to, the following:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or on frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, **including the Knowledge Gateway**, leisure facilities such as parks, libraries or swimming pools, markets and covered markets;
- (e) the premises are sited near places and or buildings of historical/cultural interest and other tourist attractions.
- (f) the premises are sited near civic buildings.

The Council will consider the extent of the relevant locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define locality as the whole of the Council's administrative area or on a ward by ward basis.

ii) Use of other premises in the vicinity

The Licensing Authority will have regard to, but not limited to, the following:

- (a) schools, nurseries or other premises substantially used by or for children under 18 years of age;
- (b) parks or other recreational areas designed for use by or for children under 18 years of age;
- (c) places primarily used for religious worship;
- (d) hospitals, mental health or disability centres, substance misuse treatment centres, sexual exploitation services, sexual abuse centres or similar premises;
- (e) any central gateway to the city or other city landmark, historic building or tourist attraction;
- (f) predominately residential areas; and
- (g) The Cultural Hub (Millennium Galleries, Tudor Square, theatres and library).

Comment [AB18]: Please see comments on the original revised policy as submitted with our paper summarising the research, see the screenshot below.

Comment [AB19]: By this definition, there will be people affected by all of the reasons that they may access any of the services, everywhere; they will not be limited to only being in the vicinity of one of these. For example, given the number of survivors of sexual violence, they will not only be in the vicinity of a sexual violence support centre

ii) Use of other premises in the vicinity

The Licensing Authority will have regard to, but not limited to, the following:

- (a) schools, nurseries, [youth centres](#) or other premises substantially used by or for children under 18 years of age;
- (b) parks or other recreational areas designed for use by or for children under 18 years of age [and access routes to and from the same](#);
- (c) places primarily used for religious worship;
- (d) hospitals, mental health or disability centres, substance misuse treatment centres, sexual exploitation services, sexual abuse centres or similar premises;
- (e) any central gateway to the city or other city landmark, historic building, [museums, art galleries](#) or tourist attraction;
- (f) [predominately](#) residential areas [including sheltered accommodation and student accommodation](#); and
- (g) The Cultural Hub (Millennium Galleries, Tudor Square, theatres and library), [the Cultural Industries Quarter, any cultural area](#).



Alison Boydell

This is weaker than in the 2011 policy and we recommend the wording from the 2011 policy be retained:

The Council will not licence premises that it feels are in close proximity to etc. See notes at the end of the 2011 policy



Alison Boydell

If these additions are **not** made, then the committee requested to justify why SEs are inappropriate near Millennium Galleries etc but not near the Site Gallery Showroom and other proposed places for the CIQ?

Whether a premises is in close proximity to the above will be a matter of fact in each individual case and cannot be determined by reference to a fixed distance. What constitutes a city landmark, historic building, tourist attraction or cultural area will be determined by the Licensing Authority on a case-by-case basis, after hearing from the parties.

The nature of the premises and the opening hours of the premises will also be considered in relation to the above.

In the case of renewal applications, the fact of whether development has occurred since the premises have been in operation will be considered. Applicants are advised to be aware of new developments occurring in the area of their premises and detail in renewal applications how negative impact on new developments may be mitigated.

Licences will be refused if the Licensing Authority perceives a venue will have negative impacts on members of the public or vulnerable persons living, working or engaged in normal activity in the area.

The Licensing Authority will also consider the following factors when deciding if an application is appropriate:

- (a) any cumulative adverse impact of existing sex establishment related activities in the vicinity of the proposed premises;
- (b) proximity to areas with high levels of crime;
- (c) whether the premises has met the relevant planning requirements;
- (d) the design of the premises frontage (signage/images etc.);
- (e) any relevant representation to the application; and/or
- (f) the proposed operating hours.

iii) Suitability of the Premises

The Council expects:

- when an application for a licence at a permanent commercial property is made, the applicant will be able to demonstrate that the layout, character and / or condition of the premises is appropriate to the relevant entertainment proposed at the premises.
- when an application for a licence at a permanent commercial property is made, that property should have the appropriate planning and building regulation consents.
- the applicant to consider and detail in any application, the visible and physical impact of the premises including any external signage, advertising or displays.

CONDITIONS

Not Buying It Sheffield response to SCC 2nd DRAFT DOCUMENT FOR CONSULTATION
February 2020 28/1/2020 to 23/2/2020

The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to a licence should be necessary, proportionate and tailored to the individual premises.

The Licensing Authority is permitted under The Act to make regulations prescribing standard conditions.

The standard conditions that may be attached on an individual basis to a sex establishment licence are available from the Licensing Service.

Management of sex establishments are expected to ensure that all members of staff working in a licensed premises are fully aware of the conditions.

This should involve providing each member of staff with a copy of the conditions when they begin working for the business and providing clear and consistent training on how to comply with the conditions as well as details of the consequences and procedures for when the licence conditions are deemed to have been breached.

The Licensing Authority reserves the right to grant and/or renew a licence on such terms and conditions, and subject to such restrictions as may be so specified in each individual case/application.

Any applicant not wishing to be bound by the standard conditions will need to state so in the application and provide justification as to why they should not apply.

REPRESENTATIONS

The Act allows any person to submit representations about the application of a sex establishment licence.

WAIVERS

Schedule 3 of The Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it considers that to require a licence would be unreasonable or inappropriate.

A waiver may be for such a period as the Council thinks fit.

Each application will be considered on its own merits by the Licensing Committee.

In light of the exemption in relation to the provision of relevant entertainment on an infrequent basis, the Council takes the view that waivers are unlikely to arise in relation to relevant entertainment and would only be considered in exceptional circumstances.

Part 7 – POLICY IN RELATION TO SAFEGUARDING

The Council is committed to minimising the risk of harm to employees of sex establishments, vulnerable customers and members of the general public that could be impacted by such establishments.

This section provides applicants and licence holders with details of training and resources available to recognise and respond to areas of vulnerability as well as measures that are expected to be in place.

Licence holders are expected to notify and make information easily available to staff and the Licensing Authority recommend the inclusion of materials and information referred to in this section in an employee induction pack at the point of recruitment.

Safeguarding visits will be made periodically to sex establishments and licence holders/managers are expected to ensure records are kept up to date in order to demonstrate due diligence.

Comment [AB20]: Strengthened to "must notify"

Comment [AB21]: Are these unannounced? A minimum number of unannounced visits per annum is recommended, for example, 6 times per year

By way of assistance, a checklist has been drafted by Public Health, Safeguarding and Licensing that could form the basis on which to design/strengthen codes of practice, rules, and welfare policies (see Appendix A).

Public Health would welcome the opportunity to review drafts produced by applicants/licence holders and provide evidence-based feedback to consider. Further information is available on (see Appendix A).

Policies & Procedures

Appropriate procedures should be in place and information available to allow staff to understand what to do if they have a problem at work.

Policies/procedures should be in place in relation to:

- the welfare of staff, performers and patrons (SEV only);
- code of conduct for staff and performers;
- social media policy for all staff and performers;
- the disciplinary procedure to address an employee's conduct;
- the grievance and appeal procedure to deal with a problem or complaint that an employee raises; and
- the health and safety policy measures in place that reduce the risk of violence to staff.

These should be in writing, communicated and easily available to all staff.

Records should be maintained that staff have read and understood the above.

Support Services

Holders of SEV licences must make information available on public health support services to workers.

An induction pack containing welfare information from a recognised body should be available to all staff.

Management of SEV's are expected to undertake a "Safeguarding & Welfare Awareness Session" provided by SWWOP (Sheffield Working Women's Opportunities Project), either on an annual basis or sooner where there has been a change to the management of the premises. There will be a charge for the training - please contact sali@swwop.org for further details.

An appropriate member of the premises management must be assigned to act as the Safeguarding Coordinator. This person should act in accordance with the guidance and training provided by the local safeguarding children/adults boards.

SEV licence holders should consider having a trained occupational health first aider present at all times that the venue is operating. This will provide a first point of contact for workers experiencing health (including mental health) issues and can signpost to more comprehensive support services.

Information on peer to peer education resources such as 'Dancers Info' (www.dancersinfo.co.uk) should be promoted as should dedicated Trade Union information for the industry which supports staff welfare, health and safety. For example, literature could be displayed in changing and staff rooms.

Contact details of whistleblowing email addresses/phone numbers should be made public in performers changing areas

Details of exit programmes should be made available to women wishing to leave the industry

Training

The licence holder should ensure that all members of management and staff attend relevant safeguarding training as well as having access to up to date educational resources available.

Training should be designed to support management and staff (including door staff, bar staff, DJ staff and performers) to recognise and respond to vulnerability in adults who are employees, voluntary workers, self-employees, performers, or customers.

Comment [AB22]: Also please see You My Sister, youmysister.org.uk

Comment [AB23]: See what Rotherham Council is developing. We know that once performers reach their 30s, many are considered too old to continue so they may be forced to leave. Similarly, some women may wish to leave, may have been sacked or if a club is shut down, may need support especially where they do not have any other experience outside of the strip industry.

We are also aware of several women from Spearmint Rhino London who have contacted Not Buying It about unlawful practices within the club.

Training should include: mental health, substance misuse/addiction disorders; mental capacity, learning disabilities and unacceptable sexual behaviour.

Staff training records must be maintained and signed by the trainee.

Age Checks

The local recognised age verification scheme that is supported by staff training must be implemented. Staff training and refusals records must be maintained and signage prominently displayed.

A policy should be in place to ensure that identity and age checks are undertaken and authenticated on all employees, voluntary workers, self-employees, performers and a legible record of authenticating documentation, including photo identification, must be maintained.

Literature and Signposting

Holders of sex establishment licences must display and make available, without charge, literature on matters relating to:

- information about local health services as may be supplied to them by relevant local bodies;
- mental health;
- sexual health;
- substance misuse;
- financial management and debt;
- safeguarding concerns; and
- sexual or domestic abuse services.

This information should be made available to patrons, employees and performers, for example, leaflets/posters in toilets

Licence holders must have health and safety policy measures in place that reduce the risk of violence to staff.

Posters making unequivocal statements about consent and what patrons must do in order to obtain consent

Comment [AB24]: Given that 2 rapes have been reported, resulting in charges and one in a conviction, at La Chambre, there must be clear signs about what constitutes consent. SRASAC is best placed to deal with this and they should be remunerated for this work

Part 8 - ENFORCEMENT

Licensing Service Principles of Enforcement:

- **Open:** The Licensing Authority will provide information in plain language and will be transparent in the activities it undertakes. It will also be clear with customers on how the service operates.
- **Helpful:** The Licensing Authority will work with licensees to advise and assist with compliance. A courteous and efficient service will be provided by all staff, and licensees will have a single point of contact and telephone number for further dealings. Applications will be dealt with promptly and where possible, enforcement services will operate effectively to minimise overlaps and time delays.
- **Proportionate:** The Licensing Authority will minimise the costs of compliance for licensees by ensuring any action taken is proportionate to the risks involved; an account of the circumstances and attitude of licensee will be considered at all times.
- **Consistent:** The Licensing Authority will carry out all duties in a fair, equitable and consistent manner. Licensing officers will exercise judgment in all cases and arrangements will be put in place to promote consistency.

The Licensing Authority will also provide a well-publicised, effective and timely complaints procedure that is easily accessible to licensees and members of the public alike.

Advice given by licensing officers on behalf of the Licensing Authority will be put clearly and simply at all times and confirmed in writing.

The Licensing Authority will also ensure that before action is taken as a result of enforcement or compliance checks, an opportunity to discuss the circumstances will be provided in order to resolve the points of difference. However, in circumstances where immediate action is necessary, such as health and safety or preventing evidence being destroyed, the Licensing Authority will be required to take a more formal approach. An explanation as to why such action was required will be given at the time and confirmed in writing, in most cases within five working days and, in all cases, within 10 working days.

Better Regulation Delivery Office: Regulators' Code 2014

In undertaking enforcement duties, the Licensing Authority will pay particular attention to the Regulators' Code. This sets out the standards that the Licensing Authority should follow when undertaking compliance and enforcement checks. Therefore the Licensing Authority will:

- carry out their activities in a way that supports those they regulate to comply;
- provide simple and straightforward ways to engage with those they regulate and hear their views;
- base their regulatory framework activities on risk;
- share information about compliance and risk;
- ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
- ensure that their approach to their regulatory activities is transparent.

The Licensing Authority will work very closely with South Yorkshire Police and the Planning Service and look to establish task teams to deal with problem premises.

Complaints

The Licensing Authority does understand the difficulty for some residents to follow up issues with particular premises due to concerns for their safety. In these circumstances, residents should contact the Licensing Service, their local Councillor or South Yorkshire Police who may assist them in these matters.

The Licensing Authority and South Yorkshire Police will work closely in order to ensure consistency, transparency and proportionality in their enforcement activities. They will continue to investigate complaints and conduct proactive enforcement exercises to ensure that licences and the conditions attached to the authorisations are complied with and that unlicensed activity is dealt with as appropriate to ensure the highest standards of licensees and premises in the city of Sheffield.

The Licensing Authority will investigate general complaints regarding premises. This will allow us to give an early warning to licence holders of any concerns identified at their premises and the need for improvement.

They may call on other relevant authorities to assist in the investigation of complaints or in formulating action plans for improvement.

Data Sharing

Subject to the provisions of the Data Protection Act 2018 [and the General Data Protection Regulation \(EU\) 2016/679 \(GDPR\)](#), the Licensing Authority and police will share information about licensees, licensed premises and activities associated with them. Further open access to data will be given to those police officers and Licensing Authority officers discharging their functions under this Act.

Part 9 - PARALLEL CONSENT SCHEMES

The Licensing Act 2003 (the 2003 Act)

If a sex establishment wishes to also carry on other licensable activities under the 2003 Act, i.e. the sale of alcohol, the provision of regulated entertainment or the provision of late night refreshment, they will also require a premises licence, club premises certificate or temporary events notice.

In practice, most sexual entertainment venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence for the sale of alcohol or provision of regulated entertainment.

Applicants and interested parties are advised to read Sheffield City Council's current Statement of Licensing Policy in conjunction with this policy.

Planning and Building Regulation Control

Applicants must ensure that they have the appropriate planning permission in place to operate their business.

The Council's licensing functions will be discharged separately from its functions as the "Local Planning Authority". However, the Licensing Authority recognises the need for the two services to work in partnership.

Therefore, the Licensing Authority requires that applicants for a premises licence and/or variations under this legislation to have already obtained any necessary planning consent. This helps to avoid unnecessary confusion within the local community.

Applicants should also be aware that Building Regulations may apply where the proposal involves building work or where the use of the building is changed. You are advised to contact Building Control for further guidance.

Part 10 - Definitions

“the Act”

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

“the Council”

means Sheffield City Council.

“the Policy”

refers to the Sheffield City Council Sex Establishment Policy.

“sex establishment”

the collective term for sex shops, sex cinemas and sexual entertainment venues.

“relevant locality”

means the locality in which the premises, vehicle, vessel or stall are situated. For the purposes of this policy, each application will be determined on a case-by-case basis. In individual cases, if it is necessary to decide the precise boundaries of the relevant locality, this will be done on the facts of the individual case.

“character of the relevant locality”

means the character or characteristics of the locality in which the premises, vehicle, vessel or stall are situated. In determining the character of the area, the Council will consider what the primary use premises in the locality are put to, any additional uses of premises in that locality, and any purposes that may require persons to use that locality, for example transport hubs, cultural hubs, etc.

“the premises”

means the premises, vehicle, vessel or stall that are the subject of the sex establishment licence or of the application for a sex establishment licence.

“sex cinema”

means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures related to, or intended to stimulate or encourage, sexual activity, acts of force or restraint associated with sexual activity, or concerned primarily with the portrayal of or primarily deal with, or relate to, genital organs or excretory or urinary functions, but does not include a dwelling house to which the public is not admitted.

“sex shop”

means any premises, vehicle, vessel or stall used for a business consisting to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

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

“sex articles”

include written or visual material such as sex magazines or books, or visual or audio recordings concerned with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage, sexual activity or acts of force and restraint associated with sexual activity, or which are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

“sexual entertainment venue”

means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

“relevant entertainment”

means 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). This definition would apply to the following forms of entertainment [as they are commonly known]: lap dancing; pole dancing; table dancing; strip shows; peep shows and live sex shows. This list is not exhaustive and should only be treated as indicative. The decision to licence premises as sexual entertainment venues shall depend on the content of the relevant entertainment and not the name given to it. An applicant will be expected to set out the exact nature, extent and scope of the relevant entertainment.

“display of nudity”

means, in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and in the case of a man, exposure of his pubic area, genitals or anus.

“the organiser”

means any person involved in the organisation or management of relevant entertainment.

“significant degree”

in the context of sex shops, shall be considered by the Council on a case-by-case basis. In considering significant degree, the Council will consider, amongst other things:

- the amount of shelf space devoted to relevant articles
- the annual turnover in relation to relevant articles and other things
- the way the business is marketed and advertised and
- the primary intention of the majority of customers in visiting the shop.

“permitted hours”

are the hours of activity and operation that have been authorised by the Council under the sex establishment licence.

Checklist for Regulatory & Welfare Visits to Sex Establishments

This checklist has been developed by Public Health, Safeguarding and Licensing to provide assurance about the health, safety, and welfare of staff and customers in licensed sexual entertainment venues.

The checklist can be completed by venue management and/or staff representatives as a self-assessment to identify areas where improvements could be made to increase the health, safety, and welfare of staff.

It may be used by partners offering welfare visits into venues such as South Yorkshire Police and Sheffield sexual health services.

The checklist does not provide a “quality mark” or endorsement of your premises.

Sheffield City Council would welcome feedback on the checklist: DPHOffice@sheffield.gov.uk

<u>Name of person completing checklist:</u>				
<u>Organisation of person completing checklist:</u>				
<u>Venue Self-assessment? (+/√)</u>				
<u>Date of visit:</u>				
<u>Time of visit:</u>				
<u>Venue name:</u>				
<u>Venue manager:</u>				
	<u>Not evidenced (+/√)</u>	<u>Partially evidenced (+/√)</u>	<u>Evidenced (+/√)</u>	<u>Comments</u>
<u>Age verification (ID)</u>				
<u>Staff records include 2 forms of ID for age verification, one photo ID passport or driving license, one with current address e.g. driving license, utility bill to be kept on file for 12 months confidentially and securely.</u>				
<u>Customer age verification is taken at the door using photo ID</u>				
<u>Customer membership includes 2 forms of ID for age verification, one photo ID passport or driving license, one with current address e.g. driving license, utility bill to be kept confidentially and securely for the period of membership.</u>				
<u>Staff notice boards</u>				
<u>Welfare information is displayed in staff areas (e.g. sexual health, sexual violence/abuse, mental health, drug and alcohol use, debt, immigration, domestic abuse)</u>				
<u>Under 25s – welfare information regarding young people, including college and university welfare services, is displayed in staff areas.</u>				
<u>In-reach visit times/dates from welfare organisations are visually displayed (including on staff timetables so that staff can attend) e.g. Sexual Health STI testing</u>				
<u>Dancers info and UK Network of Sex Work Projects information is displayed in staff areas</u>				

http://www.dancersinfo.co.uk https://uknswp.org/um/safety/				
Trade Union and/or peer support information is available in staff areas.				
Occupational health contact information is displayed in staff areas.				
Venue welfare and/or safeguarding contact person information is displayed in staff/customer areas.				
Information is displayed regarding complaints of abusive staff/customers and how these will be managed/contact person.				
Information – names, description, photographs – of barred/banned or otherwise risky customers (“Ugly Mugs”) from the local area is displayed in staff areas.				
Staff changing areas				
Staff changing areas are adequately heated and ventilated.				
Staff changing areas are of adequate size for the number of staff.				
Staff changing areas have locked storage (e.g. lockers) for staff personal belongings.				
Staff changing areas are smokefree.				
Staff changing areas have access to free drinking water and facilities to make hot, cold drinks and prepare basic snacks.				
Staff changing areas are private with no customer access e.g. doorcode key pad.				
Stocked First aid kits (including plasters) are available in staff areas.				
Staff health, safety and welfare				
Private or more secluded areas of the premises have appropriate measures in place for protection of staff/customers e.g. line of sight from venue management, panic buttons, mirrors, CCTV.				
Staff/customer toilets have condom machines in working order				
The venue participates in condom distribution scheme and condoms are visible and accessible to staff and customers				
Sexual health exit-testing kits are available to staff and customers				
Licensed taxi firm numbers displayed for staff transport in late evening.				
Employee records include emergency contact information and health needs/medication				
Staff sign in/sign out is in operation for safety of staff				
A code of conduct for expectations of customer behaviour towards staff is clearly displayed in staff and customer areas.				
Venues have policy and procedures for safeguarding vulnerable adults (staff and customers)				
Receipts are provided for house fees and fines.				

Comment [AB25]: This implies that this is a venue which is facilitating and even encouraging sexual contact, whilst this is appropriate in La Chambre, it is conveying the wrong message in strip clubs

From: [Not Buying It](#)
To: [licensing-service](#)
Cc: [Sheffield Not Buying it](#)
Subject: Additional Comments to Draft SEV Policy
Date: 24 February 2020 13:33:46

Dear Licensing

I had no internet yesterday and part of today but please accept these comments below as important considerations for your new SEV policy

Thank you

Sasha

Dr Sasha Rakoff
CEO Not Buying It

no@notbuyingit.org.uk
www.notbuyingit.org.uk

Objections/Support Statements for Hearings:

Given the leakage of 700 emails, including those of rape victims, it is imperative that a much better system is in place that guarantees such information cannot be leaked again.

Please use an online system for people to make objections/support statements for SEVs - where emails/addresses are given separately from the body of the objection (or any attached objection). Communications to objectors/supporters should then be made via the online system and not via 'BCCing' - which can very easily become CCing by mistake, which is the simple error that occurred previously. This is likely to occur again, given the stress and sheer volume of activity around SEV licensing.

By keeping names, emails and postal addresses separate from the objection itself, it should also be easier to all such identifying information as these should only (occasionally) be in objections made as attachments. A considerable number of personal details (names/addresses) were not fully redacted in the report pack for Spearmint Rhino's last licensing hearing.

Undercover Checks Imperative at Strip Clubs

There must be undercover visits by expert, independent trained professionals, with expertise in visiting strip clubs without being detected (hired by the council not the club - but the money for this to come from the license fee!)? Visits must be random and neither council nor club may know when they are taking place

All council visits, even unannounced are meaningless - here and elsewhere across the UK. Camden has brothels operating under its nose even though licensing team and police rush inside to do an inspection in an attempt to detect sexual contact the minute they arrive. Undercover visits in Manchester also revealed excessive sexual contact - never seen on Council visits and so on.

‘Dancer Wellbeing’ by those who stand against Dancer Wellbeing

We have severe reservations over the adequacy of 'dancer safety and well being' currently suggested, and linked to, by the Council. This comes from advocates of the industry who for the last 10 years have deemed Camden, Manchester, Birmingham, Bristol, Durham and Cornwall as 'gold standard' in terms of regulation and dancer safety. However there is a long history of abuse, assaults, GBH, drug dealing, sexual contact, pimping and financial fraud at clubs in these locations. The situation in Cornwall was so bad it was dubbed the West's 'Magaluf'.

More information here: www.notbuyingit.org.uk/Publications#Press
and here: <https://youtu.be/YON699g-hjw>

Products from such advocates cannot be seen as a meaningful source of reliable information for dancer safety and welfare. We would suggest it is likely to actually be contrary to dancer well being.

Likewise the 'dedicated' Trade Union referred to in this draft does not appear to have dancers' welfare genuinely at heart as it lobbies vociferously for even the most abusive clubs to remain open (Spearmint Rhino, Sheffield; Sophisticats, Camden - with 13 counts of credit card fraud in one year alone - and the Secrets chain - with a decade long history of credit card fraud, sexual contact and GBH, including against lap dancers).

More information here: www.notbuyingit.org.uk/Publications#Press

It has also publicly defamed Not Buying It, making multiple false statements and allegations about us and what we exposed at Sheffield Spearmint Rhino. This doesn't simply undermine the NGOs that actually speak truth to the industry this serves to intimidate, censor and threaten ANYONE who might speak out against the industry. This in itself is wholly counter to dancer welfare - making it even harder for women harmed by the industry to speak out against it (an almost impossible feat of bravery already).

The council must commission an independent NGO/front line service provider (that is *not* advocating for the industry and that is speaking to women who whistleblow and expose the industry) to create independent, meaningful dancer safety procedures

Training

Council staff and Councillors on the SEV subcommittee urgently need to receive ongoing training by experts who expose the truth of the industry and women from the industry who whistle blow on it and their advocates, rather than industry advocates/academics and even legal advisors - all with a clearly highly vested interest to promote the industry and/or little genuine understanding of the industry.

Lap Dancer Exit Programme

We cannot stress enough how imperative this is. Rotherham is now working towards this. Camden already has a lap dancer forum in place and we have heard Tower Hamlets is working towards a dedicated exit programme. Given the generation of young women who have been abused in Sheffield's strip industry (this amounts to 1,000s of individuals), many then going on to full blown prostitution because of lap dancing, there is an urgent need to support all women out who wish to leave - or whenever a strip club is shut.

We urge the cost for this to be added to any license fee.

Wider Sex Industry and harm of lap dancing

This draft must acknowledge the evidence that lap dancing is an entry point into prostitution and the steps that are going to be taken by the Council to attempt to address this.

Evidence of this and the harm of lap dancing itself has already been provided through testimonies from women who have exited your strip club and via Not Buying It Sheffield's objections.

Please also see research evidence here: www.notbuyingit.org.uk/Publications#Research

and testimonies from numerous women who have whistle blown on the industry here: www.notbuyingit.org.uk/Publications#Performers

Sheffield Feminist Network response to consultation on Sex Establishment Policy 2020

SFN is an umbrella group of organisations campaigning for equality and women's rights. Every effort has been made to include perspectives from previous consultations, campaigns and submissions in this response from the active members of the coordinating group. It reflects the reality that the majority of concerns over the past few years raised about Sex Establishments relate to so called Sexual Entertainment Venues in the city, both those in respect of which licence applications have not been pursued successfully (Villa Mercedes) those currently in existence and any future applications.

SFN notes that "La Chambre" is designated as a Sexual Entertainment Venue (SEV) but has previously argued that the club has not been the focus of concern in previous submissions because the operation of "La Chambre" does not rely explicitly on "consent" to sexual activity being mediated through a financial transaction as in other, lap dancing establishments.

Recent rape allegations at "La Chambre" do raise new question about circumstances in which a SEV licence might be withdrawn temporarily or otherwise and how that would be investigated/regulated by SCC.

We make the general point that including a range of sexual establishments in a single policy may not be helpful.

SFNs response is based on a clear position about SEV's; that they have no place in Sheffield. We note and welcome the council proposal for there being nil Sex Establishments in the city. We suggest that the same principles that inform the proposal to set a no cap in the city centre should apply to all areas of the city.

We do not understand the rationale for the rebuttal presumption (which applies to new applications) which doesn't apply to existing clubs when there is a licensing renewal though are reassured about the insight that this appears to provide about SCC aspirations for reducing the number of sex establishments.

The council proposes that there should be no such establishments in the city but doesn't explain the existence of one establishment currently in the city (and in respect of which opportunities to decline re licensing). This seems irrational. Case law demonstrates that existing licence holders cannot be treated differently from new SEV applicants. Licensing regulations require that a fresh eye should be cast on renewal at every renewal point. In this context SFN asks the council to note the outrage at the decision of the licensing committee 2019 re Spearmint Rhino in the face of evidence about breaches and threshold for meeting discretionary grounds/ licence refusal being clearly met.

SFN recognises and is grateful that the consultation document implicitly recognises that potential harm accrues from sex establishments and has also committed to a wider public safety principle. However, since no information about the EIA has been provided it is difficult to be a critical friend and assess the extent to which wider public interest and harmful impacts of Sex Establishments have been properly considered, or might be considered determined in future.

The consultation document states that the EIA has informed the development of the policy to mitigate outcomes considered to be potentially harmful. Consultees are disadvantaged by not having access to the EIA and not having information about outcomes which are currently considered to be harmful.

We have been concerned that previous policy consultation documents have put a spin on the value of the Sex Establishment

sector to the city. We are, therefore, pleased, that Part I (Introduction) refers in factual language to the councils obligation in law to regulate and license without putting a positive gloss - previously asserted without any evidence to substantiate that gloss - on what they bring to the city (deleted first two paragraphs Par. 1 Introduction).

In the overview section we note reference to the promotion of high management standards, public safety and safeguarding those who work in/ use sex establishments including as vulnerable adults working/ in using the establishment, or in the locality. The draft reasserts Crime and Disorder Act Obligations to prevent crime and disorder (part 4). It is disappointing that there is no explicit expectation here of promoting public safety particularly in taking account the potential distal consequences of sex establishments (promoting inequality and distorted attitudes for example).

A glaring omission in the context of safeguarding is the lack of mention of young people in the locality of Sex establishments. In the case of a city centre SEV there is ample evidence of establishments in the locality providing support, education and training to young people which appear to have been ignored in the granting of 2019 licence and now a project for young women victims of sexual exploitation which operates in walking distance of one SEV.

We are not sure why the draft includes reference to the council not taking a moral stance in adopting this policy and ask that this be justified. Ideally it should be deleted as it is not necessary. If the council is applying law and policy and case precedent it will act rationally. The issue of morality has been “weaponised” in previous debates and submissions with detriment to informed, research evidenced arguments, usually made by objectors. The council has a responsibility to take note of community values and views and judicial view has found that SCC was wrong to dismiss concerns

about the objectification of women as moral arguments, though these are central to safety and well - being arguments.

Many members of Sheffield Feminist Network have attended licencing hearings which have been fraught and difficult. We welcome clarity of the procedural issues outlined at Section 5 but make the following specific recommendations for the future (These do not exclude suggestions made by other contributors)

- That there should be appropriate training for all licensing decision makers/ committee members,
- Training should include basic understanding of law and precedent, relevant knowledge base and understanding issues such as trauma,
- A code of conduct for all participants,
- A greater degree of scrutiny of the applicant claims and information presented (it might be argued that there should henceforth be higher level of scrutiny of the veracity and reliability) and that must be enabled by judicious questioning and probing by panel members,
- That the conduct of Panel members must be even handed and of the highest standard (We are aware for example of a councillor appearing to fall asleep during proceedings and not being challenged),
- Hearings must continue to be public and all objectors need to be invited,
- It is for those managing the hearings to enable participation of all who want to contribute. This must include respectful behaviour, for example the avoidance of the interruption and hectoring of a vulnerable witness, the misnaming of key objectors. Professionals involved must be respectful -at a licensing hearing in 2019 a lawyer was noted to drop his file and make a fuss and noise while a key objector was outlining

her case. In other similar situations it is likely that a presiding official would have intervened,

- There should be clarity and equitability about the admissibility of late documents.

This is important as Home Office Guidance 2010 is clear about the implications of recent legislation highlight the importance of local people having a greater say in these matters.

In relation to Part 6 (Policy in Relation to Discretionary Grounds) we are concerned that only a basic Disclosure Certificate is being requested. Given the public interest and Safeguarding issues which are highlighted in this draft it would not be unreasonable to have a higher level of check. As we understand, at a basic level check an organisation would not receive information about matters of concern which had not resulted in conviction (this might be a particular issue in relation to domestic and sexual abuse/ harassment which are both under reported and less likely to result in convictions.) It would not receive information about current sensitive investigations or soft information/intelligence.

This raises a wider question about the route by which a DBS is processed by an applicant (the draft policy states that a DBS certificate should accompany the application). From a broader safeguarding/risk management perspective SFN would like to be clear about who (i.e which *responsible* and *independent* body) processes the DBS Application and who is doing risk assessments of information that may emerge from that process. All find it astonishing that it is stated that it is *unlikely* that the highlighted offences will *not* result in automatic debarment from having a licence and welcome explanation of in what circumstances and what criteria would apply if debarment would not take place.

In this section (Reports of Unsuitability of Licence Holders) experience during 2019 suggests that the process did not respond in

a timely manner to reports of breach of licence requirements which both directly and indirectly were causing harm to women. What would SCC now accept as evidence of harm on which it would act and what is the procedure for dealing with those concerns? And given that those raising concerns previously were told that there is no mechanism for temporarily closing down a venue around a period of investigation how could those safety issues be better managed?

Section 7 refers to safeguarding. We understand that there is an individual submission in relation to specific safeguarding queries. SFN welcomes any opportunity to raise awareness of the fact that safeguarding is everyone's responsibility but there is a paradox here, particularly in relation to the safeguarding of vulnerable adults.

Many women involved in sex establishments, particularly women working in SEVS with insecure contracts will, for a variety of other reasons, meet the legal criteria for being identified as a vulnerable adult. These may be student care leavers still entitled to statutory support under relevant childrens legislation, women with addiction problems, women otherwise survivors of sexual abuse or exploitation. Live testimony at recent hearings and wide research which is easily available will support that picture.

Legislation enshrines the right of those who are vulnerable to exercise choice make (even unwise) decisions about what they do, providing that they have capacity. But decision making and choice for those women are fraught with caveats and Hobsons choices. There is nothing in this document to suggest that those complexities have been addressed anywhere or that the environments and conduct which takes place in SEV establishments may be both source and reinforcer of harm to very specific women.

Our sense is that the council is tacitly acknowledging the toxicity and impact on women. There is an ethical issue here about having a

framework in which we pretend that we can mitigate the effects of the thing that is causing further trauma whilst the thing that is causing aggravating trauma keeps happening. SFN has no answer to that in the context of regulation which is an obligation whilst such places exist. Regulation might raise awareness and help some. But it should not be part of SCC work to effectively collude long term with adaptation to behaviour, work, circumstances which are harmful.

We note the policy refers to providing advice but nowhere is there reference to information about alternative choices other than sex work. So, there must be a balance of information for example, information about exit networks and support for women and from organisations with a range of critical views about the sex work industry. There must be a secure and accessible whistleblowing process. This is not even hinted at in your draft standards.

Given the national research about inspections which have exposed wide criminality and breaches we are not confident that an inspection framework will be effective but suggest there should be a framework of visits unannounced 6 times yearly unannounced.