

APPENDIX B

Stage One Comments -

1 neutral, 2 supporters, Sheffield
Safeguarding Partnership and Public Health)

COMMENTS ON SEX-VENUES1) THE VENUES

Writing from myself I've never been to a venue in Sheffield but we are fully adult aware of the Working Men's Club, Sunday lunch strip-tease, which is of no issue, In the City Centre, as long as they display the sign ADULT ONLY outside, common sense prevails to man and woman, whether 'yes' or 'no'.

2) THE SHOPS

I have no personal issue, I choose how far along the shop I wish to go. Ann Summers displays her range well, soft, medium and hard, My negative comment is the stupid women! shopping with children. Again the adult fantasy shops I have never set foot in.

3) THE CINEMAS

I have to say I don't know of any cinema, but in my earlier years the 'Studio Seven' in the Wicker was the adult cinema, just a quiet evening out for people.

4) MY FINAL COMMENT

Taking the venues away from the City Centre, the situation has filtered into local area public houses, back rooms, some quite sordid, so I hear. I preferred the days of Page Three, Mayfair and Pirelli, keeping to artistic nudity and not sex, but being a female adult, I do not campaign to stop, as there is a wide variation of adult choice. At the end of the day it's their adult body, not mine, I would give myself misery opening newspapers, magazines and stepping into sex-joints.

From: [Hague Julie](#)
To: [licensingservice](#); [Bower Claire](#)
Cc: [Horsefield Victoria](#); [Gilbert Tina](#); [Boo Magda \(NCC\)](#)
Subject: RE: Public Consultation: Sex Establishment Policy
Date: 14 May 2019 11:54:02

For the attention of Claire Bower, on behalf of the Licensing Authority

Good morning Claire

Thank you for consulting with the Safeguarding Children Board in your review of the Council's Sex Establishment Policy. I am writing to offer the following comments for your consideration, in relation to Part 8 of the policy relating to Safeguarding.

- Para 1 and 2 to be amended to read: The licence holder will ensure that all members of management and staff attend relevant safeguarding training. The training should be designed to support management and staff to recognise vulnerability in adults who are employees, voluntary workers, self employees, performers, or customers, to help management and staff to recognise and respond to vulnerability. The content of the training should include: mental health, anxiety, depression, PTSD, body dysmorphia, anorexia, substance misuse/addition disorders; mental capacity and learning disabilities.

Training must also be in place to ensure staff are able to implement the age verification policy, including the maintenance of refusals records. Staff training records detailing the content of the training, qualification/expertise of the trainer, date delivered and details of the trainee must be maintained and signed by trainer and trainee.

- Insert new para 4: 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.

I hope the above is helpful.

Kind regards

Julie

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Response to Sheffield SEV Policy Consultation

This submission is delivered on behalf of United Voices of the World (UVW) members working as dancers at Spearmint Rhino in Sheffield. It was authored collectively by members, with contribution from a union representative.

United Voices of the Word is a members-led, campaigning trade union representing some of the UK's most marginalised and precarious workers. Since 2014, UVW members won significant victories for low waged and migrant workers in the service industry, securing a living wage, safe working conditions, dignity and respect for thousands of workers. Since 2018, UVW has been organising with strippers working in clubs across the UK. We represent a number of strip club workers in Sheffield and make this submission on behalf of our members.

Please see below our response to the Sheffield draft sex-establishment policy document. Our response corresponds to the different sections in the draft document and, when appropriate, we quoted the relevant section.

Part 1- Introduction

1.1 We strongly agree with the Council's assertion that '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.'

In addition, clubs support a large number of workers, including dancers, bar, security and cleaning staff and their families. They also interact with and support a range of local businesses such as food and drink suppliers.

Part 2- Overview

2.1 We strongly agree with the Council's assertion that 'sex establishments are a legitimate part of the retail, leisure and entertainment industry'. We also assert that special considerations should apply to licensing SEVs and that the Council should continue to develop its policy in consultation with workers and their representatives.

2.2 We are in agreement with the Council that it is important to apply 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 in the locality of sex establishments."

In this document we will present our views on measures to protect the safety of people working in SEVs in Sheffield and the contribution of SEVs to safety in their surrounding areas.



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2.3 We are encouraged that the council aims to ensure safeguarding of performers at sex establishments.

As the trade union representing strippers, it is of paramount importance to us that all workers at SEVs have access to the legal rights and protections afforded to them by law.

We identified a few areas of the current legislation that do not provide this protection:

Employment status

We are concerned that the widespread misclassification of strippers working in clubs as 'independent contractors' (self employed) is a serious obstacle in achieving this aim, as it deprives workers from access to the most basic labour rights and protections.

We assert that strippers engaged in most SEVs (and, in particular, in the current licensed SEV in Sheffield) fulfil the requirement of a 'worker' status, which entitles them to legal rights including a minimum wage, protections from harassment, discrimination and unfair wage deductions and to rights derived from the Working Time Directive concerning holiday and sick pay.

The implementation of these rights should not interfere with their current working conditions (flexibility of schedule, cash payment etc.) and all SEV performers should be consulted when attaching license conditions of this nature, to ensure that workers are able to access their labour rights without negatively impacting on their income or flexibility of work.

Length of license period

We are concerned that the current length of licenses (up to 12 months only), present an obstacle in pursuing normal labour procedures. The constant threat of non-renewal means that workers are less likely to report abuse or breach of their rights at work and are less likely to pursue a remedy, either through internal processes or through Employment Tribunal.

In particular, we are aware of the fact that Sheffield dancers held back from reporting on a number of cases, in fear of their workplace losing its license. We argue that longer licenses, alongside implementing worker status, better training and a formal grievance procedure, will help to ensure better safety for all SEV workers.

Part 5- Integration with other statutes

5.1 We are in agreement with the council that the council must, in line with the Equality Act 2010, 'protect people from discrimination in the workplace and wider society.' This includes the need to thoroughly consider the need to:

- 'promote equality of opportunity;
- eliminate unlawful discrimination, harassment and victimisation;'



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We are concerned that workers in SEVs in Sheffield are not currently, and have not historically, been sufficiently protected from unlawful discrimination, harassment and victimisation. Thus we recommend that additional conditions be added to the licenses of such venues. These recommendations can be found in our response to **Part 8- Safeguarding and public health**.

In addition, the council must, in line with their 'spot checks' to ensure license conditions are not breached, ensure that they are aware of the measures that have been taken to ensure equal access to disabled persons wishing to attend the venue. This includes ensuring that lifts and ramps are functional and accessible at all times. Where problems with accessibility equipment occur, they must be remedied as soon as practically possible.

Management in such venues should also receive training on disabilities (including invisible or misunderstood disabilities such as types of blindness) in order to provide equal opportunity to all wishing to enjoy the venue, and make reasonable adjustments for such attendees as far as practically possible. This may include providing a performance area with adjusted audio, lighting or space for mobility devices as appropriate.

5.2 Human Rights Act 1998

We would like to see a proper consultation process developed around this policy, which directly involves reaching out to SEV workers and sex workers organisations, carrying out a survey of workers views and identifying particular needs. We recommend that the consultation is designed and implemented by established sex work organisations, who have access to large number of workers and are trusted across the industry (for example X:Talk or SWARM).

5.3 The Provision of Services Regulations

We assert that, in line with government recommendations, 'any refusal of a licence must be non-discriminatory'. We request that the council takes into consideration the additional barriers that workers in SEVs face when a club shuts down, such as limited access to other forms of employment (due to stigma and CV gaps) and no access to redundancy pay or paid leave to see workers through a period of unemployment.

Part 6- The process of applying for a license

6.1 The application process

We agree with the Council that a rigorous and effective application process is needed for the licensing of SEVs, in order to ensure that workers' rights and safety are protected.

We would like to add to part 6 these additional requirements:

1. Dancers in SEVs who qualify for worker status should have access to all the labour rights and protections afforded to them by law.



2. Venues should produce a clear grievance procedure (including an appeal mechanism)
3. Venues should inform dancers of their right to join a trade union
4. The club should provide evidence that all members of staff and management (including the license holder themselves) have been comprehensively trained in line with our suggestions regarding **Part 8- Safeguarding and Public Health**.
5. The license holder must provide clear evidence of their own suitability to manage such a venue as outlined in our comments on **Part 7- Policy**.
6. The venue must provide a physical copy of an approved introduction and induction pack to all performers, to the specifications outlined in **8.14**.

6.2 Discretionary grounds for refusal (c)

We contest the proposal to limit the number of SEVs in any area of Sheffield. We believe that each SEV application should be judged on merit and not be refused due to an arbitrary cap on licenses. In particular, we object to the 'nil cap' policy, regardless of location.

The loss of any license will predominantly and disproportionately affect women, reducing their livelihood, increasing the risks to their safety and affecting families and communities.

We know, from experience, that restricting the number of SEV, shutting down clubs and refusing to license new ones do not increase the safety or welfare of dancers. In fact, we know that closing down legal clubs forces women into illegal ones and into work in unregulated private events and criminalised brothels, where they have no access to union representation, to achieving worker status and to securing the rights and protections it entitles them to.

Closing down SEVs makes women less safe and more vulnerable.

The Council has a commitment to safeguarding through ensuring the welfare of the most vulnerable workers. On that basis we recommend that the council does not limit the number of SEVs in any locality.

6.3 We contest the notion that sexual entertainment premises attract or increase antisocial behaviour. This idea is based on a now wholly discredited research and has not been proven. In fact, some research suggests that the presence of SEVs, with their CCTV system and high level of security inside and outside the premise, can help deter antisocial behaviour around the area where the club is situated.

Part 7- Policy

7.1 Suitability of the applicant, manager & beneficiary

The license holder / applicant must be able to demonstrate to workers and the council their suitability for obtaining and holding the position. This includes being able to



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demonstrate the completion of comprehensive training in line with our comments on **Part 8.**

Of particular importance is training on sexual consent, assault and harassment, grooming, substance misuse, financial or sexual exploitation, mental health as well as health and safety specific to the venue and equality and diversity.

This also vitally includes transparency within the venue and to the council about the nature of management roles and their recruitment process (to avoid cronyism and inappropriate appointments), along with a clear picture of the management structure and each member of staff's responsibilities.

Where the council is aware of any allegations of sexual harassment or misconduct by the applicant, we recommend they work with the venue to ensure that they undertake a rigorous, sensitive and timely investigation process, in accordance with labour law recommendations , and, if necessary, ensure the venue recruits a suitable replacement.

7.2 Welfare policy

We are encouraged that Sheffield City Council requires, as a licensing condition, satisfaction regarding:

- '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).'

However, we recommend that this should not be left solely as the responsibility of the license holder and that the Council develops mechanisms to ensure clubs adhere to effective welfare policies that focus on dancers' views and needs. Moreover, we believe, again, that the best and most effective way to guarantee the welfare of workers is through the implementation and enforcement of existing labour rights and protections, as stated above.

We agree with the Council's assertion that it is the responsibility of SEV operators to ensure the welfare of performers and other workers and with the expectation of the monitoring of performers 'physical and psychological welfare'

We are concerned that without enforcing the rights and protections derived from a 'worker' status, strippers are vulnerable to inadequate welfare policies. In particular, it means that dancers who are ill or injured are forced to continue working without access to even statutory paid sick leave. Worker status will ensure that workers can take time off when they are unable to work due to ill health and have time to recover from injury.

In addition, dancers also have limited recourse to labour protections without the enforcement of a rigorous, transparent and fair grievance procedure. We request that the council makes this a licensing condition and monitor its implementation.



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We understand, as a feminist trade union, that violence against women and girls manifest itself in many different ways and situations. This is particularly true when there are no protections in place and no legal framework to enforce them.

We, however, strongly disagree with so-called radical feminist groups who claim that all sex work is a form of violence and use that biased statement to demand that legal, regulated and licensed SEVs are shut down. We request that the council follows government guidelines, stating that SEV licenses should not be granted or revoked on 'moral grounds', and maintain its impartiality when considering applications.

We offer to work with the council on developing a 'new set of standard conditions and the implementation of a code of conduct for management and dancers'.

We believe that this standard must cover workers rights and include legal protections for workers. In particular, it should cover a basic requirement to enforce the labour rights derived from worker status, in regards to all dancers who qualify for it (depending on the specific terms of engagement in each club), as well as standards around Health & Safety. It should also include access to a fair and transparent grievance process, to collective bargaining, and to trade union representation.

As the trade union representing dancers in Sheffield, we stand ready to advise the Council on the legal framework and the potential policies that could be developed on that basis.

7.3 Representations

We would like to reiterate that the Council should be mindful of various groups (who present themselves as feminist) who are motivated by a 'moral' objection to sex work, but present their arguments in a different context. These groups are known for using unlawful methods to affect licensing decisions, including threats, undercover filming and harassment of workers and punters. We recommend that this is taken into consideration around the granting or evoking of any SEV license.

Part 8- Safeguarding and Public Health

Regarding 'The protection of vulnerable people from harm', we believe that workers in some SEVs can be better protected from harm through the implementation of strict labour rights and protections (see above: **2.3**).

We know that the denial of these basic labour rights - where workers have no access to legal protections from harassment and discrimination, no collective representation and no recourse to effective grievance and appeal procedures - is a key factor in increasing the vulnerability of dancers.

We are particularly concerned with the safeguarding of workers in the venue from sexual harassment and violence, and financial exploitation.

8.1 Safeguarding



We strongly agree that with the council's statement that 'The licence holder will ensure that all members of management and staff attend training regarding safeguarding children, vulnerable adults and licensing.'

However, we argue that this should apply to *all workers* in sex establishments, who must be safeguarded from sexual harassment, misconduct or violence, financial exploitation, discrimination, harassment or abuse on the basis of race, religion, nationality, gender, disability or age according to UK law, and not only those described as 'vulnerable' in the policy draft. We therefore recommend that the policy clearly specify an obligation to safeguard all workers in the venue, and that the license holder must also meet our proposed conditions outlined in the following.

8.11 Safeguarding from Sexual Harassment/Violence

UVW stresses that workers in SEVs in Sheffield must be protected from all incidences of workplace harassment or violence, to the same extent as workers in all other types of workplaces.

We assert that workers in SEVs must never be forced to endure or tolerate unlawful or discriminatory conduct, regardless of the nature of their work or their workplace. We assert that more rigorous protections are absolutely necessary to ensure the safety of all in the venue. UVW stands ready to advise the Council on the legal framework and the potential policies that could be developed on that basis.

All workers in the venue, while the business is in operation (door staff, management, bar, DJ staff, performers) must have completed training and have access to up-to-date educational resources on sexual assault, harassment and consent. This facilitates a safe and supportive working environment and must be bolstered by a robust grievance procedure.

There must be absolutely no sexual contact between staff and performers on premises, during or immediately following shifts (for example when workers may have consumed alcohol, or on late night journeys home). This applies particularly to interactions between members of management or door staff and performers.

The dressing room door must remain closed, and any member of staff other than a performer (particularly male staff) must knock, announce themselves and wait before entering. This allows performers privacy and safety.

8.12 Grievance procedures

Licensed venues must display and demonstrate readily a robust, clear and accessible grievance procedure, including a demonstration of the way the procedure works, has been, and could be implemented in a range of possible circumstances (for example: the procedure for complaints of racial discrimination, sexual harassment, health and safety issues etc.).

Licensed venues must demonstrate that action has been taken for each grievance, and be able to readily justify to Sheffield City Council the reasons underlying a decision to take no action. Formal



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records must be kept for inspection by the licensing service. This must be confirmed to be accurate by keeping an open line of communication between Sheffield City Council and workers in SEVs, not just management.

We suggest that licensed venues must, as a condition of their license, provide clear, independent and external contacts for any workers in the venue to deal with complaints of assault, misconduct or harassment. This list must comprise of direct contact details for the licensing service, trade union contacts, and a non-biased independent charity, organisation or support service that works with survivors of physical or sexual violence. On this point, Sheffield Rape and Sexual Abuse Centre is unsuitable for such a purpose, due to the conduct of their representatives and their representation objecting to the licensing of an SEV in the city.

There should be a view to providing access to non-judgemental and non-discriminatory support services, to protect the equality of access to health and social services, and to protect the health and wellbeing of workers in the venue. A nominated support service should be selected with the input of current performers and organisations that support sex workers such as SWARM, National Ugly Mugs, Red Umbrella, X:Talk or similar.

8.13 Disciplinary Procedure for all staff

We encourage the council to demand that clubs demonstrate a clear, transparent and fair disciplinary policy, with a right of appeal.

We strongly object to the current immediate threat to SEV licenses due to breaches of license undertaken by individual workers.

We believe that this measure is discriminatory (as it affects women working in one particular industry). No other kind of workplace is routinely threatened with closure - resulting in loss of jobs for all employees and workers - due to the actions of one worker. We believe that workers in SEVs should be treated similarly to workers in other industries, where those who have breached the terms of their employment (or engagement) are disciplined individually (with the right to trade union representation) and where grievances against management or the company don't result in a threat to the business licence (within reason).

We find the current form of collective punishment (against dancers, bar, security and all other staff) entirely disproportionate, especially considering the fact that the dancers are otherwise denied their right to collective bargaining and representation.

8.14 Induction and Information Pack

To combat the normalisation of sexual violence in the sex industry by those who describe sex work as inherent violence (thus failing to distinguish between consensual sexual performance or contact, and sexualised experiences which are not consensual), and those who believe that workers in such venues must accept victimisation, violence or harassment as part of their job, we demand that workers in such venues must have a copy of a printed Induction and Information Pack (that is theirs to keep) that states clearly something to the effect of:

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- 'No member of staff, management, customer or other individual should touch you without your consent or in a way that makes you uncomfortable. Sexual harassment, misconduct or assault is unacceptable and will not be tolerated in this venue.'
- 'If you are made to feel uncomfortable in this manner by anyone within the venue, you can anonymously report this incident via ...'

In addition, this statement (or something to similar effect) must be accompanied by external contacts (as outlined in **8.13**). Legal protections must be explained and demonstrated, for example, protections from detriment for Whistleblowing.

It must also be made clear that workers' identity will never be disclosed without their consent, and that workers can raise their grievance through a trade union which will provide the necessary legal and workplace protections.

It must be emphasised (and enforced) that all allegations of sexual assault, harassment or misconduct are taken seriously, handled in a timely, sensitive and confidential manner, and that the complainant is kept informed regarding each stage of the process.

This is of particular importance with regards to safeguarding vulnerable workers, particularly those who are young, unable to find other work, or who are disabled, have a specific learning difficulty or who possess any other protected characteristics.

This pack must also include a list of public health resources, recommendations for which can be found below (**8.2**).

This pack must also include a printed copy of

- i. The dancer's contract.
- ii. The venue's code of conduct.
- iii. Resources on financial literacy.
- iv. An introduction to how to register for tax.
- v. A clear and accessible copy of the SEV conditions (in layman's terms, and with clear and consistent training in what the conditions are, and how to comply with them). It would be beneficial to point out nominated senior staff (performers who are familiar with the license conditions and industry) that new performers can seek resources support or guidance from.
- vi. A clear and easily understandable list of fees and commissions that applies to all performers equally, and a specification that cash tips are the property of individual performers and not to be redistributed to staff as outlined in **8.2**.



- vii. Direct contact details to a Sheffield City Council licensing officer as specified in **10.1**.
- viii. Information about trade union membership and access to other forms of legal support.

The pack must also include a clear statement of the kinds of CCTV captured in the venue, what purposes it is used for, who can watch it and how it is stored under GDPR. It should clearly specify that CCTV is watched in order to ensure the safety of workers in the venue as well as compliance with licensing regulations.

The pack must outline the consequences and procedures in writing, for where the license conditions or code of conduct are deemed to be breached during the performance of relevant entertainment. This must include information on any potential disciplinary action or dismissal, including information on a complaints and appeals process for workers, for example, including the contact details of a trade union.

The pack must include a clear image of the management structure in the venue, and corporation if appropriate, including the information referenced in **7.1 Suitability of the license holder**, who the management are, how they were recruited, on what basis and how long they have performed the role, including the specific training they have fulfilled which we have outlined a need for in this section (**Part 8**).

8.15 Customer Breach

When recording a breach of license conditions that constitutes physical or sexual assault, or in the event of any other form of unlawful or otherwise, abuse or threat by a customer against a performer, management should refer performers to the welcome pack (**8.14**) in tandem with any additional support resources and public health information, and, where contact was unlawful, supported to report to the police if they decide to do so. Evidence should be preserved in case of this eventuality. In this event, it would also be useful to refer the performer to a nominated mental health first aider or occupational health officer as outlined in **8.3**, to assess for risk to mental health and provide signposting to support services as well as pastoral support.

8.16 Safeguarding from discrimination

We recommend that in order to protect workers (and applicants for work) in SEVs from discrimination on the basis of protected characteristics (race, gender, religion, disability etc.), management must be comprehensively trained on equality and diversity and racial sensitivity, as well as be prepared to defend all in the venue from racist micro-aggressions or abuse.

Staff must formally log, take action (and be prepared to justify this action, or a decision to take no action) where there is any allegation of racism, xenophobia or other discrimination in the workplace.

Door staff must also be trained on equality and diversity and racial sensitivity to avoid unfair treatment of customers or workers in SEVs, and to promote equality of opportunity and access.

8.17 Safeguarding from financial exploitation

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We fully object to the implementation of fines and other penalties on dancers. We, in fact, assert that these amount to unlawful deduction from wages.

We also recommend adding a section about the charging of House Fees and commission. We suggest that fees and commission should be capped and that no changes to house fees or any other payment structure should be permitted by the council without previous consultation with dancers (and, when applicable, with their trade union).

We strongly recommend that, as a license condition, license holders must request permission from the council before changing house fees, commission or penalty fines for workers. These financial conditions should be regularly confirmed to be in practise with current workers in the venue and with the input of a trade union. If a venue claims to charge 35% commission on performances, and breach this condition, we argue they should be subject to penalty, as it is upon these conditions that the licensing committee makes their decision to license a venue.

We are concerned with the ability of venues to charge performers higher commission for the performance of what is in practise the *same* relevant entertainment in different areas of the venue, for example, charging £35 commission on a £80 15 minute VIP performance, where it should be only £28 if the 35% commission rate was adhered to.

We are also concerned with venues charging performers higher commission due to customer's using different forms of payments (card over cash), for example, charging performers £8 commission on a £20 dance when payment is received by card to buy 'dance chips'.

We express concern, moreover, that venues are able to charge unlawful transaction fees on card payments, which routinely disadvantages workers. We recommend the council works with venues to establish regulations around card transaction fees, regardless of the amount spent.

We strongly object to any attempt by venues to repossess any percentage of cash tips received by workers, regardless of amount. Cash tips given to workers are not within the agreed commission expected from workers for use of dance booths and the services of security staff while performing in these booths, and are the property of the dancer.

In the interest of preventing financial or sexual exploitation, grooming, housing or food instability, we propose that venues must not be allowed to charge 'house fees' and commission when a workers has earned below the national living wage. Workers must never leave with less than a living wage as a result of commission and fees being deducted from their nightly earnings. We propose a ~£50 earning allowance on a weeknight (6 hour shift) and ~£80 on a weekend (9.5 hour shift) We recommend this be added as a licensing condition, to ensure workers never leave work out of pocket after having performed relevant entertainment.

8.2 Public Health

We strongly agree with the council's condition that:



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

- sexual health,
- the prevention of sexually transmitted diseases and HIV,
- mental health;
- substance misuse; and
- information about local health services as may be supplied to them by relevant local bodies.'

We are encouraged that Sheffield City Council are concerned with ensuring 'health and safety policy measures in place that reduce the risk of violence to staff.'

To improve access to services for workers who may self-exclude from accessing public health support services due to justified fear of stigma, judgement or their work being pathologised, we assert that this information must include the contact details of an approved support service or organisation (as outlined in **8.13**) with specific proficiency in the areas of sexual trauma or specific experience with and non-judgemental understanding of the sex industry and those working with it. The authors of this submission stand ready to offer guidance on the selection of this organisation or practitioner.

In addition, we recommend venues have a trained occupational health and mental health first aider (or other pastoral staff) present at all times while the venue is operating. This provides a response to some of the more prevalent health concerns for workers in the venue, such as common physical injuries or ailments from dancing or the relevant uniform, including how to treat and prevent such injuries or issues, and provides a first point of contact for workers who experience mental health issues or assault or harassment at work, in order to signpost to more comprehensive support services.

Part 9- Enforcement

We encourage the council to implement the proactive approach described in this section, including offering SEV license holders and staff 'training, advice and information and initiatives that educate, inform and encourage partners and stakeholders to work together effectively and holistically'. In particular, we encourage the Council to draw on the wealth of experience and knowledge held by established sex workers organisations and to cooperatively develop policies, training materials and workshops and other resources that would help to increase the safety and ensure the rights and protections of workers.

Additional Comments

10.1 For the avoidance of interference by management, or the council only having access to a select few performers/staff, we suggest continuous, open lines of contact between the council and workers in SEVs. All workers should have a direct contact number and email of a relevant council worker in their welcome pack as outlined in **Part 8**. We recommend a fully trained and approachable specialist SEV/sex-establishment/welfare officer within Sheffield City Council Licensing Service. Any



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communication with workers must be kept anonymous (unless consent to disclose is given), handled sensitively, and with a transparent and open procedure, including expected outcomes. It should be made clear to workers exactly what action (if any, or if not, why not) will be undertaken by the licensing service to ensure venues are safe and compliant, for all visitors and workers in the venue.

We also suggest holding a regular Dancers Forum, where current workers are invited to meet with the licensing service to discuss any wellbeing, licensing or health and safety concerns they have within the venue. It may be beneficial for a trade union representative to be present to put forward any issues requiring anonymity and for the avoidance of persecution or discriminatory treatment by management. These meetings must also cover the licensing conditions and regulations and the impact that they have on the material reality of workers in the venue (for example health and safety concerns such as increased sexual assault risk when dance choreography is limited in specific ways).

10.2 We propose that, in order to effectively deal with the issues outlined in this document, that SEV licenses be renewed on a bi-annual basis. This allows for problems in the venue to be resolved in an appropriate manner, and restricts the ability for issues to be suppressed, or for workers to self-restrict themselves from reporting and taking action when they have experienced harassment, misconduct, assault or abuse, or taking up a case with an employment tribunal, for fear that their experiences will be used to close venues, which would inflict further harm on some of the most vulnerable workers, often those who are already subject to multiple forms of discrimination and limited access to justice (such as migrant workers, women of colour, disabled women and women with no access to other forms of employment). Workers should be supported to report misconduct, safe in the knowledge that the only people penalised for it are those who committed, enabled, or concealed it, and not all workers in the venue.

Moreover, the stress and precarity that annual licensing brings about severely adversely affects the wellbeing, mental and physical health, social and family lives, and stress levels of workers. Already marginalised and precarious workers are pushed into dedicating a significant portion of their time to fighting for their ability to work, as well as a loss of income due to the media attention as outlined in **10.3**, for those who cannot engage in activism due to family commitments or health issues are significantly impacted by the stigma, misconceptions and stereotypes about the industry that are espoused every year, and can feel isolated, marginalised and excluded from society. This impacts access to services as discussed in **8.12** and adversely affects mental health, social cohesion and the mental health of workers in the venue, which frequently is expressed derivatively in a loss of earnings due to inability to work.

10.3 Blanket bans on SEV advertising in Sheffield are not justifiable. The government has deemed SEVs a legitimate part of the night time economy, like any other club or business. Thus, venues should, as a 'legitimate' business, while being sensitive to the need not to expose underage or unwilling people to explicit or offensive imagery, be able to advertise services, at the very least using the name and address of the venue, price offers and written description. Objection to advertising in contrast to other licensed venues in the city is clearly connected to moral arguments against the existence of strippers, strip clubs and the industry. It would be unacceptable for popular student nights to be restricted from advertising and operating on the grounds that orthodox Christians may be offended by or morally opposed to the thought of alcohol consumption or other people's promiscuous behaviour.



UNITED VOICES OF THE WORLD

We believe the ban on advertising has a direct and immediate impact on the precarity of workers at SEVs and their ability to earn from their work. Moreover, we believe that this precarity and financial instability has likely contributed to the alleged license breaches in 2019. Workers who are financially desperate are more likely to be exploited or to make decisions they would not otherwise. SEV businesses should be allowed to operate as any other business in the city, in addition to the specific and necessary protections that workers in the venue demand. Constricting the ability of workers in the venue to earn money in an industry deemed legitimate by the government, because of a small group of moral objectors, is not fair, and would not be permitted in other arenas.

This impact is compounded by the current annual license renewal procedure. The yearly media discussion about license renewal, in the absence of any advertising that the venue is open, as well as the lack of signage, leads many to the impression the venue is permanently closed or closing. Workers in the venue have noted that by the time their incomes recover from the yearly negative media attention, the next renewal comes around again, and with that, the income of vulnerable and precarious workers is adversely impacted. This is another reason for implementing a longer licensing period as outlined in **10.2**.

Appendix H Equality Impact Assessment states that "it is a standard condition of any license granted that consent of the licensing authority be sought for an advertisement, photograph or imagery that indicates or suggests relevant entertainment takes place on the premises. This includes the frontage and any other signage on the premises itself. It is the policy of the licensing authority not to give such consent for any such advertisement or display which has any *visual depiction or suggestion of relevant entertainment or nudity* whether such visual depiction be by photograph or any other type of image. Where any consent is sought for an advertisement or display that may contravene this part of the policy it will be referred to the licensing committee for determination.". p.1304 We suggest, therefore, that advertising (with the exception of explicit, offensive or suggestive imagery, and with consideration of the PSED) be permitted.

In conclusion

As the trade union representing dancers working in Sheffield, we would like to establish positive and effective work relations with Sheffield City Council and, in particular, with the Licensing Committee regulating SEVs.

We believe that it is necessary and useful to license, monitor and enforce conditions on SEVs and that, when applied well, this could help to increase workers' safety and welfare.



UNITED VOICES OF THE WORLD

Sheffield's only strip club supports many local workers and their families. Any change to licensing policies, and, especially changes that would lead to the reduction in the number of SEVs, pose a direct threat to these workers' livelihood.

Our members are extremely anxious about this potential and the consequences this will have on their ability to support their families and pay for housing, bills, food and university fees.

We request that the committee considers this angle very seriously when making decisions about the number of SEVs and the way licenses are granted.

In regards to existing and potential new SEVs, we request that the council makes worker's rights a key requirement for licensing, including enforcing access to all the legal rights and protections that are available to workers in other industries.

Please don't hesitate to contact us for any further information or clarification.

Shiri Shalmy
Organiser
United Voices of the World

From: [Rosa Vince](#)
To: [licensingservice](#)
Subject: Re: Public Consultation: Sex Establishment Policy - EXTENSION TO DEADLINE FOR COMMENTS
Date: 31 October 2019 18:55:23
Attachments: [sr letter \(2\).docx](#)
[POLICY DRAFT FOR CONSULTATION -rv comments.docx](#)

Dear Council Staff,

Thank you for the opportunity to contribute to your consultation on SEV licensing policy. I apologise for this contribution being so close to the deadline, but I have been unwell. If there is anything I have missed out due to the last minute nature, or anything else you want to clarify, I am very happy to be contacted in the future.

I have attached a copy of your policy document with some comments from me. I also have attached the statement I made in support of the license of spearmint rhino, where I made points about the agency of workers, exploitation, and objectification (drawing on my academic work), and these points certainly apply here and more generally. I hope these are helpful.

One thing I want to emphasise is a general point about restrictions on sex work of any kind: restrictions on sex work have always made sex workers less safe. There is a wealth of evidence for this (including the recent government report <https://www.gov.uk/government/publications/nature-of-prostitution-and-sex-work-in-england-and-wales>). For an overwhelming amount of evidence I advise reading *Revolting Prostitutes* by Juno Mac and Molly Smith, which collates scores of studies and first hand experience of many kinds of sex work, and illustrates that sex workers are safest when there is no specific restrictions on sex work (where sex work is bound only by the laws which bind *all* kinds of work).

Let me know if you would any more information from me.

Thanks again and best wishes,

[Rosa Vince](#)

Dear staff at Sheffield City Council Licensing,

I am writing to you in three capacities today; first as a local resident, second as a PhD researcher working on Objectification, and third as a friend of a couple of the workers at Spearmint Rhino. I am writing to offer you my views, professional and personal, on why Spearmint Rhino's license should be renewed.

Location

I live within a few hundred yards of Spearmint Rhino. I walk to and from work past it every day, I used to work nights, so have often walked past in the middle of the night and early hours of the morning. I have never felt unsafe around that area. On the contrary, I am glad to know there is somewhere nearby that I know to have security present, and compassionate staff. I often feel unsafe walking down Brammall Lane after a football match or down West Street during Varsity, but no-one has yet suggested cancelling sports or relocating them to a safe distance from any passers-by. Further, there is, as far as I'm aware, there is no evidence of greater crime near the venue. Also regarding the location: the complaint that Spearmint Rhino is too near to Hallam Hubs is unreasonable, as Spearmint Rhino was there before Hallam bought the Hubs building. Finally, this shouldn't need to be said but: students are adults and are capable of making their own decisions; the idea that seeing a strip club near their uni will be a bad influence is paternalistic and insulting.

Exploitation

Next, I would like to make a few notes on the 'exploitation' claims that were made by purportedly feminist groups at previous licensing hearings. Last year, a point was made about women occupying lower paid positions than men in the venue, which is obviously a problem; a problem shared by virtually every institution in this city, including both universities and the council. Next, concerns were raised about the wellbeing of the workers. Notably, these concerns were raised by people who had never worked in the venue, and *no current workers* were consulted on this. The current workers are the (only) experts on the working conditions. Not asking the workers if they experience exploitation, and whether they want their venue closed down, and assuming someone else knows better, denies their agency and is dehumanising. It implies you see them as incapable of making sensible decisions: this is an infantilising and misogynistic. Last year at the hearing, one person described the situation in strip clubs as "consent being muddled by the handing over of money" – a criticism which can be made of *all paid work* or none. On this point: part of a commitment to believing women when they say they have been sexually assaulted is believing them when they say they have not been. Feminists must care about consent to sexual contact, and this involves believing women when they say that consent is present, as well as when they say it is absent. It is extremely harmful and offensive to suggest that the workers experiences of real sexual violence, and their work, are the same thing; some of these women will inevitably be survivors of violence and to tell them their jobs are the same as when they were really raped is disgusting. This claim is connected to the claim that women's options are so limited, that consent to this kind of work is not really valid. But again, this can be levelled at all kinds of work, particularly minimum wage work, and if women's options are limited the answer is not to *limit them further* by closing down legal venues.

Furthermore, if there was a problem with exploitation, or poor working conditions, the solution would not be to shut the venue down (this only makes things worse, by pushing the workers into a precarious financial position), the solution is to improve the rights of the workers. (Relatedly, the rights of the workers have now improved, as they have been unionising in order to strengthen

themselves in the face of attacks from the carceral feminist groups). Consider the University of Sheffield: casual workers at the university are exploited, and MPs such as Louise Haigh have been rightly speaking out against this treatment and the impact of casualisation in general. Notice, no-one has suggested shutting down the university as a result of this exploitation. I hope that if workers at Spearmint Rhino are exploited, then Haigh and others will similarly offer help in campaigning for labour rights, rather than shutting it down.

Objectification

The word ‘objectification’ gets thrown around a great deal in these discussions, featuring with regularity in last years’ hearing, and those using it don’t seem to have coherent conception of the phenomenon. When objectors to the license last year referred to ‘objectification’ they can be understood as making one of two claims: (1) that the workers themselves are objectified or (2) that the existence of strip clubs contributes to women’s subordinate status in general. Let’s address these one by one.

i) The workers are objectified

One claim that was made last year was that the workers were conforming to stereotypes about how attractive women should look. This was referred to as objectification, but this is a misapplication of the term. I’ll deal with it here anyway before moving on to actual objectification. The criticism of Spearmint Rhino workers for meeting a stereotyped aesthetic buys into two harmful ideologies: firstly, it commits the mistake of prescribing to women how they should and shouldn’t dress. This is something we feminists have been fighting against, so for self-proclaimed feminists to make prescriptions about how ‘real women’ should look is bitterly ironic. Secondly, it subscribes to a ‘purity’ ideology, which relies on the premise that there is something shameful about women using their bodies for their own benefit, and feeds into slut-shaming and victim-blaming more widely.

Now, on to actual objectification; There are a few possible definitions of objectification, but in the feminist literature most seem to turn on reducing a person to her appearance or body parts and on paying less attention to her other attributes. This happens to us constantly, and is often unwelcome and unpleasant. However, there is very important point in the ‘often’ here: objectification is not *necessarily* harmful. Sure, it is harmful a lot of the time, but it is not in every single instance, and it is my job as a philosopher to work out *when* it is harmful, and what makes it so. Myself and others argue that objectification is harmful *when it is non-consensual*. To motivate this, consider the following cases: both will count as objectifying on this understanding, but only one is harmful.

Squeeze 1: At a party, a man discreetly squeezes a stranger’s bottom, to communicate that she looks sexy. She did not consent to this and is unhappy.

Squeeze 2: At a party, a man discreetly squeezes his partner’s bottom, to communicate that she looks sexy. She consented to this and is pleased.

These cases are nearly identical, a key difference being that one is *consensual* and one is not. Given what we as a society agree about sex in general, this should be intuitive: *that non-consensual sexual contact will be harmful, when similar consensual contact need not be.*

One could respond at this point “wait there is another difference; the man in squeeze 1 was a stranger”. However, prior relationship between parties cannot be the difference-maker here. To see this, imagine if in squeeze 2 the woman had asked her boyfriend before the party “please don’t touch me sexually this evening, I’m not in the mood”, and imagine he still squeezed her bottom at the party. In this case, the prior relationship still exists, but he has definitely done something

harmful. This is because she *did not consent*. Similarly, sexual contact between relative strangers can be completely harmless, as long as you are not committed to archaic ideas that casual consensual sex outside monogamous long-term heteronormative relationships is somehow improper.

When someone leers at us at a bus stop, or catcalls us, or spends our job interview staring at our breasts; that is harmful objectification. But when we consent to another person engaging with our bodies in a particular way, that is not harmful. When the workers consent to a customer looking at their bodies, this is not a harm in the same way that any of us consenting to our partners looking at our bodies is not a harm. The workers value the distinction between what they have consented to and what they haven't. To behave as if this distinction is not relevant is to dehumanise the workers, and relies on the myth that some women are always appropriate objects to violate, and that their consent is irrelevant.

The attitude of some of the Spearmint Rhino workers is ‘well misogyny is everywhere, so I’m going to be objectified either way, I’d rather do it on my terms and get compensated for it’.

ii) The existence of strip clubs contributes to women’s subordinate status in general

It is entirely plausible that various media that display women’s bodies in an objectifying way contribute to sexism generally. However, this has nothing to do with Spearmint Rhino. First, Spearmint Rhino *does not advertise* outside the venue. Secondly, and more importantly, there is no reason to believe the (mere) existence of strip clubs does damage to women’s status in society on scale even remotely comparable with that of car adverts, clothing adverts, romantic movies and TV shows. If you want the really big contributors, those who have a pervasive and pernicious impact on how men view and treat women, you want Mercedes, Bic, BMW, American Apparel, and every chocolate, beer, and clothing company; you want to shut down every television show and movie which romanticises men harassing women (which is virtually every drama or romcom ever). *There is absolutely no unique contribution from Spearmint Rhino to patriarchy.*

Furthermore, whatever the contribution to sexism in general, it is actively anti-feminist to sacrifice one group of women, particularly an already marginalised group (women in the sex industry) for the sake of others.

Finally, regarding how the workers have been treated. I would like to take this opportunity to forcefully condemn the shocking behaviour from anti-sex work groups and the council. First, it is inexplicable that the council have not invited workers to speak in their own defense at past license hearings. Allowing claims about the workers to be thrown around each hearing without an attempt at hearing what the workers *themselves* actually experience is both foolish and dehumanising. Second, the behaviour of groups Not Buying It and Zero Option has been disgusting on social media and their websites: they have been insulting and attacking the workers, describing them in dehumanising ways like “implants wrapped around a pole”, and shutting down any attempt the workers have made to communicate amicably. Lastly and most importantly I was deeply saddened and angered to hear that these groups, along with the Women’s Equality Party, have utilised private detectives who violated the workers by filming their bodies without their consent, and sharing that amongst themselves, and publishing details on the internet. This is a gross violation of their boundaries, and is tantamount to revenge porn and sexual harassment, and has made the workers feel anxious and afraid as they don’t know who might’ve seen their bodies without their consent.

I hope you take all of this into account for the hearing, and I would love to be kept informed on any developments if possible.

Thanks and best wishes,

Rosa Vince

Sex Establishment Policy

Incorporating Sexual Entertainment Venues, Sex Shops and Sex Cinemas

Licensing Service

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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 Sheffield City 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.

Part 2 – OVERVIEW

The Sheffield City Council Sex Establishment Policy (“the Policy”) sets out the City 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 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 City 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. It is the City Council's role as the Licensing Authority to regulate such premises in accordance with the law.

The City 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 in the locality of sex establishments.

Part 3 – CONSULTATION ON THIS POLICY

This policy is subject to a 12 week consultation.

Part 4 – 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.

Comment [RV1]: This doesn't define what 'character' is. I worry that the implicit definition is one that appeals to moralism and the sensitivities of those who find certain kinds of venues to be 'not classy'.

“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.

There is a particular kind of sexist moralism that has been appearing in hearings of SEVs recently and is at risk of being let in with this policy. I am referring to the 'slut shaming' attitudes which find women wearing revealing clothing to be distasteful, and is rooted in sexist ideologies and rape myths which paint some women as "bad" (those who show parts of their bodies, those who enjoy sex, those who have sex outside of marriage, etc) and some women as "good" (those who perform traditional marital roles, dress modestly, and do not seek their own enjoyment or fulfilment).

“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.

When I refer to harmful moralism later in these comments, please bear this kind of position in mind. I hope it is obvious why this is harmful, and why your commitment in part two above that "The City Council does not take a moral stance in adopting this policy" is so important.

“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.

Part 5 – 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:

- promote equality of opportunity;
- eliminate unlawful discrimination, harassment and victimisation;
- promote good relations.

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

A detailed Equality Impact Assessment (EIA) has been undertaken and kept under review throughout the drafting of this policy and then finalised on publication of the policy. Further EIA's will be conducted where necessary.

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.

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.

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.

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 & disorder in the city.

Part 6 – 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.

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;
- 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 [RV2]: Is this in line with other venues? E.g. Non-sexual bars and clubs, shops selling non-pornographic films.

If not, I suggest examining why that is and consider whether it violates the clause in 'part 2 overview' that the council does not take a moral stance.

If the worry is instead something to do with fears around exploitation, or sexism, please refer to my letter regarding spearmint rhino (the points therein are general and very much applicable here).

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, objector's personal details such as name, address and telephone number will be removed.)

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

Determination of Applications

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

Comment [RV3]: All of these conditions turn on the very shaky term "inappropriate" and leave the door wide open for moralistic opposition. In particular, referring to the 'character' of the locality, makes it very easy for people to object on moral and sex-negative grounds.

Comment [RV4]: I suggest that not only should we hear from applicants and objectors, but also people affected by and uniquely knowledgeable regarding the venue. i.e. The council should consult the workers of these establishments. This is extremely important, particularly given how claims about the workers have, in recent years, been thrown around in these hearings by people who have never entered the club or met the workers.

Comment [RV5]: Discretionary grounds (c) and (d) below are very open to abuse, as mentioned above. Grounds like these have previously been a window for thinly veiled moralistic value judgements are a way in which classist and sexist rhetoric is reinforced (e.g. certain areas are 'low-class' where 'immoral behaviour occurs', as opposed to venues where 'high art' can be found).

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.

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.

Comment [RV6]: Why not? Particularly given that it is an open question, rather than set here in stone, how many SEVs is too many.

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.

Part 7 - POLICY

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 "Disclosure Scotland" certificate that is dated no earlier than 5 weeks prior to the application being submitted should accompany the application.

Where the relevant individuals have convictions for;

- (a) dishonesty;
- (b) violence;
- (c) sexual offences;
- (d) drugs;
- (e) public order; or
- (f) people trafficking;

it is unlikely that a licence will be granted.

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.

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.

This Policy does not specify any limit on sex establishments.

Comment [RV7]: What is this based on? It seems arbitrary and again leaves the door open for moralistic objections.

Each application must in any event be considered on its merits at the time the application is determined by the local authority.

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.

Comment [RV8]: See all my above comments on 'character' opening the door for moralistic/sex-negative/sexy/classist objections.

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, 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.

Comment [RV9]: This is very perplexing. How do SEVs affect people living nearby? As someone who lives within a couple of hundred yards of an SEV, I have never suffered from its presence. I suffer a great deal more from the proximity of the Leadmill due to loud music.

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) predominantly residential areas; and
- (g) The Cultural Hub (Millennium Galleries, Tudor Square, theatres and library).

Comment [RV10]: It is unclear why this is. How exactly is an SEV supposed to be a problem for these venues and people? It would only be relevant if there were evidence of greater crime around SEVs, but there is no evidence for this. The only other reason I can see why an SEV could not exist near to a Church would be for moral reasons, which, as we saw in section 2 is not a reason that is any business of the council.

Even if there were good reasons for these clauses, (which are yet to be provided) they should at least include a specification that these premises are functioning at the same time as the local mosque/school/etc.

Comment [RV11]: As above, but the reasoning is even less clear here. Is Nottingham Castle any less valuable and beautiful for having the Museum of Nottingham Life or the Trip to Jerusalem pub nearby? No. So what is the difference between the museum and the pub and an SEV? If you can answer this without making the kinds of moralising claims that I have expressed concern about throughout these comments then I will give these clauses a chance.

Comment [RV12]: Again – see comments above on d(i), and at bottom of page 8. What is the rationale for this?

Comment [RV13]: This leaves this wide open to abuse.

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 has 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.

Comment [RV14]: This seems unfair, given that a venue applying for a license renewal was there first. When someone else decides to move their business into the area it is their responsibility to check whether they are happy with their prospective neighbours.

Comment [RV15]: Of what nature? Hopefully, this will refer to crime statistics only, and not to moral offense.

Comment [RV16]: For whose benefit? Is this out of concern for the workers, or punters, or someone else? If it is the workers, it is a very good idea to consult the workers themselves on any SEV license application.

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

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.

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 to 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 8 – SAFEGUARDING AND PUBLIC HEALTH

Safeguarding

The licence holder will ensure that all members of management and staff attend training regarding safeguarding children, vulnerable adults and licensing.

This training is provided in partnership by the Sheffield Safeguarding Board and Adult Safeguarding Partnership with the Licensing Authority. Such training is designed to support management and staff to recognise vulnerability and take appropriate safeguarding actions. This will include training to implement an age verification scheme and how to recognise and respond to vulnerable adults, as employees or customers. The training will also include a session regarding licensing law, conditions and expectations.

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.

Public Health

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

- sexual health,
- the prevention of sexually transmitted diseases and HIV,
- mental health;
- substance misuse; and
- information about local health services as may be supplied to them by relevant local bodies.

Comment [RV17]: These are great – can this be included in all venues? I don't see why only SEVs should provide this essential info that everyone can benefit from.

This information must be made available to patrons, employees and performers. Licence holders must have health and safety policy measures in place that reduce the risk of violence to staff.

Part 9 - 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 1998, 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 10 - 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.

From: [Boo Magda \(NCC\)](#)
To: [licensingervice](#); [Bower Claire](#)
Cc: [DPHOffice](#)
Subject: RE: Public Consultation: Sex Establishment Policy - EXTENSION TO DEADLINE FOR COMMENTS
Date: 30 October 2019 10:42:03
Attachments: [Magda Boo - Licensing Consultation FINAL Public Health Comments.doc](#)
[SEV Evidence Summary v5.docx](#)
[SEV Checklist DRAFT v3.docx](#)

Dear Claire

Thank you for providing an opportunity for Sheffield City Council Public Health to comment on the draft policy for Sex Establishments.

Please find attached:

- Comments from Sheffield City Council Public Health on the draft policy;
- The evidence review on which these comments are based;
- A welfare checklist for venues which has been developed jointly between Public Health colleagues and Julie Hague, Safeguarding and Licensing which we would like venues to consider using for best practice/harm reduction and regulatory/welfare organisations to use in partnership with venues on visits;

I am more than happy to provide additional information or clarification if required.

Best wishes

Magda

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24/10/2019

Dear Claire Bower,

Re: Sex Establishment Policy DRAFT document for consultation

Thank you for the opportunity for Public Health to comment for the purpose of the consultation on the Sex Establishment Policy DRAFT. I would ask that the consultation takes account of resources produced by Sheffield City Council Public Health and informed by Safeguarding and Licensing to reduce health impacts of sex establishments and support the welfare of performers and customers, these documents are the ***Sex industry and Sexual Entertainment Venues and health evidence summary*** (2018) and the ***Evidence-based Checklist for Regulatory & Welfare Visits to Sexual Entertainment Venues/Sex Industry*** (2018). These resources will be regularly reviewed and updated by Sheffield City Council Public Health so as to keep pace with current evidence and best practice.

I have provided a few broad comments specific to the DRAFT policy below:

Part 1 introduction “When well-managed and well-regulated” could precede the first sentence to add balance so that this reads “*When well-managed and well-regulated* Licensed Sex Establishments in Sheffield contribute to the recreation, entertainment and night time economy etc”. This sets the scene as to why a policy is needed and confirms that the approach is not *laissez-faire*. The reference to the appeal for the students at the two universities should be removed or balanced by acknowledgement of the evidence in the ***health evidence summary*** concerning debt and illicit drug use driving industry employment and consumption by students and therefore this not being a positive employment or recreation choice for most students. There should also be acknowledgement if this sentence is retained that predominantly it is female students who are performers in such venues and poverty is a driver for participation whereas male students are consumers and debt and illicit drug use are predictive. The findings of the National Student Money Survey should also be noted where 4% of around 3,000 student respondents were engaged in sex work due to financial hardship and a further 6% would consider engaging in adult work if financial hardship increased¹. This number had doubled from the previous year’s survey and far from being a rewarding occupation for students carried stigma, regret, shame and mental health impacts. This balances this statement regarding the appeal of the industry to the university which otherwise presents participation

¹ <https://www.bbc.co.uk/news/business-50138612>

and consumption as a simple leisure choice rather than the more nuanced and complex situation that the evidence suggests.

Part 2 – Overview Sheffield City Council Public Health welcomes the four bullet points regarding high management standards; public safety of staff, performers, and patrons; safeguarding of the same; safeguarding vulnerable adults in the locality. These important goals that have driven the policy should be informed by best current evidence and practice. For example, high management standards and safety of staff may be informed by the **Evidence-based checklist** referred to above. The statement regarding safeguarding vulnerable adults should also make it clear that these vulnerable adults are likely to include performers and patrons. The **health evidence summary** referred to above highlights high levels of young age, mental health, sexual abuse histories, and debt in this particular industry which may make performers or patrons vulnerable. The policy does reference later that safeguarding vulnerable adults includes staff and patrons (**Part 8**) so it would be useful if this could be joined up and referenced here as well.

Part 3 – Consultation no comments
Part 4 – Definitions no comments

Part 5 – Integration with other statutes It would be helpful to indicate how the EIA has informed changes to the policy so as minimise effects considered to be potentially harmful. The sentence regarding equalities obligations not being at risk (due to equal access to all except under 18s) does not address some of the potential equalities impacts of an industry which the **health evidence summary** shows to be predominantly employing women and predominantly consumed by men for example, or predominantly employing younger women (under 25), or where a significant minority (1/3) have mental health difficulties. This policy therefore does specifically impact on certain protected characteristics such as sex, age, disability (mental health). The policy also impacts on socio-economic status as a driver for participation in the industry as a performer or consumer. Socio-economic status is not a protected characteristic but should be considered for health impact assessments in terms of inequalities. Sheffield City Council Public Health would like these particular challenges for this industry to be openly acknowledged so that they are effectively risk assessed and risk managed, for example through Safeguarding & Public Health (**Part 8**).

Part 6 – The process of applying for a license Sheffield City Council Public Health welcomes the requirement for applicants to provide “a copy of the codes of practice for performers, the rules for customers, and the policy of welfare for performers (SEVs only)” and for these documents to form part of the license and be subject to amendment by the Local Authority in certain cases. An **Evidence-based checklist** has been drafted by Sheffield City Council Public Health and Safeguarding and Licensing and could form the basis on which to design such codes of practice, rules, and welfare policies. Sheffield City Council Public Health would welcome the opportunity to review drafts produced by premises and provide evidence-based feedback which premises may wish to consider. The **health evidence summary** demonstrates that partnership approaches are the best approaches for reducing health impacts and supporting the welfare of staff and patrons. We would welcome the opportunity to work in partnership and learn from venues what is operationally feasible in order to co-produce workable policies that promote staff and patron health and welfare.

Part 7 – Policy Discretionary Grounds a&b) Suitability of the applicant, manager, and beneficiary Sheffield City Council Public Health welcomes the focus on relevant individuals with convictions where it is unlikely that a license will be granted (a-f). The **health evidence summary** refers to high levels of workplace violence, including physical and sexual violence, in this industry and therefore it is important that this potential risk is assessed and managed. No staff should be permitted to work in this industry in Sheffield - including bar staff, door staff and other casual staff - who have relevant convictions for offences against women and basic Disclosure and Barring Service (basic DBS) employment checks should form part of the license. Sheffield City Council Public Health would add to (7b) “**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*. Those with civil orders awarded against them for domestic abuse or domestic violence convictions may be unsuitable to hold a license for such a venue or be employed in a position in such a venue where they would present a risk to staff and/or patrons. It may be appropriate to consider on a case-by-case basis actions short of conviction for sex offences (e.g. cautions) given the attrition between reporting of sexual offences to the police, charging, and conviction shown graphically in this useful summary by the Office of National Statistics (<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffendingvictimisationandtheopaththroughthecriminaljusticesystem/2018-12-13>)

Sheffield City Council Public Health welcomes the reiteration of the need for policies for the welfare for staff, performers and patrons and the need for the operator to act in the best interest of staff and performers (7 d vi and 7e). We would advise venues to review the **Evidence-based checklist** and consider what is relevant and feasible to enact in venue policies. Sheffield City Council would welcome the opportunity to work in partnership with venues to co-produce operationally workable policies that promote staff and patron health and welfare.

Part 7 – Policy Discretionary Ground c) Number of Sex Establishments The policy does not specify any limit on sex establishments but Sheffield City Council Public Health would recommend that this is re-considered, a limit is applied to current SEV levels or fewer, and that this is kept under review. The **health evidence summary** suggests that a greater number of establishments can lead to riskier practices (negative health impacts) although they can also lead to more mobility and choice for staff (positive health impacts). Further, the **health evidence summary** suggests that welfare and regulatory services do not have the capacity to provide the necessary in-reach and/or regulatory visits if there are a large number of geographically dispersed venues. The number or limit of sex establishments (including SEVs) should be based on the capacity of welfare services (drug, alcohol, sexual health, mental health, domestic abuse, sexual violence) and regulatory services (licensing, safeguarding) to **proactively** support venues. It may be difficult to elicit feedback from venues/performers concerning the impact of competition on good practice and staff welfare as disclosure could potentially put a venue’s license at risk. However, where possible such anonymised and confidential feedback should be sought. The balance of evidence in the **health evidence summary** is that more venues increase risk so that the policy should have a limit or cap on the number of venues. The recent review of the license of Spearmint Rhino suggested that there were practices at the venue which regulators were not aware of which raises questions about capacity to effectively regulate the number of venues currently licensed. This difficulty of regulating the current number of establishments may be exacerbated with a greater number of SEV establishments and potentially less

resource in regulatory services and wider health and welfare services due to ongoing budget reductions. The number of venues which may feasibly be supported by welfare services may include **saunas** which are not covered by this policy.

Part 7 – Policy Discretionary Ground d) Location Sheffield City Council Public Health welcomes the focus on sensitive location and the list of locations in the policy (i character and ii use of other premises) is in line with the broad consensus in the **health evidence summary**. The policy should be clear that educational establishments includes Universities and colleges and is not limited to education for under 18. This focus on students is due to the evidence in the **health evidence** summary concerning student vulnerability as both performers and consumers in this industry which is linked to debt and illicit drug use and is therefore not a positive choice of employment/recreation for most students. The recent Student Money Survey already referred to above indicated that up to 10% of students may engage in adult work due to financial hardship, and that this occupation has emotional wellbeing impacts for these young people.

The policy should specify domestic abuse premises as well as those already listed and perhaps more broadly ‘vulnerable women’s welfare services’ – there is currently a SEV (Spearmint Rhino) directly opposite a project for women with multiple and complex needs in Sheffield ('Together Women').

The change in character and use of the surrounding area is important (ii use of other premises) and should be carefully managed, including supporting venues to relocate where an area is being regenerated and such land use is no longer appropriate. An example of this is the Attercliffe area of the city which now has several schools and University buildings and these educational land uses are not compatible with the number of sex shops, swingers club, and saunas in the area. For this reason “regeneration areas or schemes” should be added to the list.

The issue of cumulative impact (7 d ii a) is complex because there is evidence set out in the **health evidence summary** that geographically compact zones of tolerance are easier to regulate and provide welfare in-reach. However, as is stated in the **health evidence summary**, all models have flaws and this includes geographically compact zones of tolerance/managed areas which currently appears to be the best, flawed, model. This important and nuanced issue should be kept under review with relevant stakeholders including welfare and regulatory services. The review of cumulative impact may include **saunas** which are not covered by this policy.

Part 8 – Safeguarding and Public Health Sheffield City Council Public Health welcomes the dedicated section to Safeguarding and Public Health in this policy. We welcome the safeguarding focus on the vulnerability of adults as employees or customers and the training of license holders to recognise and respond to such vulnerability.

We welcome the focus on Public Health and specifically the need for venues to consider sexual health; sexually transmitted infections (not ‘diseases’), and HIV; mental health; substance misuse; and other local health services. We would include debt and sexual abuse/sexual violence/domestic abuse services as supported by the evidence in the **health evidence summary**. It may also be pertinent to provide EU settlement information as well as wider immigration information as supported by the **health evidence summary**. Peer

education resources such as 'Dancers Info' <http://www.dancersinfo.co.uk> could usefully be promoted to venues and performers as could dedicated Trade Union information for the industry which supports staff welfare, health and safety as supported by the evidence in the **health evidence summary**. The benefit of 'Dancers Info' is that it has peer-peer information, is evidence informed, and is available in translation. The policy should be clear that this is not about providing *literature* alone, but about facilitating welfare in-reach visits by agencies, provision of condoms, STI testing kits etc. This is described more fully in the **Evidence-based checklist** and this could usefully be provided to venues to enable them to decide what is operationally feasible to offer and best fits their venue in terms of demographic and services provided.

Sheffield City Council Public Health welcome the focus on health and safety policies that reduce the risk of violence to staff and the **Evidence-based checklist** provides some examples of layout of premises that can reduce risk such as use of panic buttons, mirrors, lines of sight, and secure changing areas. Regulatory visits may be important to risk assessing layouts and ensuring the health and safety of performers and customers is not compromised by layout.

Part 9 – enforcement Sheffield City Council Public Health support the use of partnership approaches where possible to ensure compliance with required standards. The **health evidence summary** suggests partnership approaches between criminal justice, health agencies and venues/sex workers best reduce health harms whereas conversely excessive regulation can disperse activity and place more vulnerable staff at greater risk. The emphasis on transparency and clear information, guidance and advice to support venues to meet their responsibilities to comply is welcomed. Sheffield City Council would promote the **Evidence-based checklist** to venues and an offer to work with venues to co-produce their own operationally feasible policies alongside this.

Part 10 – parallel consent schemes The **health evidence summary** supports "joined up government" between Planning and Licensing to enable venues to have the confidence to invest in their premises, which includes measures of design and layout to support the health, safety, and welfare of staff. Sheffield City Council Public Health support the clarity in the policy regarding the separate role of Planning.

Yours sincerely,

Magdalena Boo
Health Improvement Principal

Dear Venue Manager,

Re: Sexual entertainment venues (SEV) licensed premises and sex industry premises CHECKLIST

I am writing regarding the enclosed checklist.

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

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

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

The checklist may be used by Sheffield City Council Licensing when they carry out regulatory visits and inspections of premises.

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

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

03 October 2018

**Evidence-based Checklist for Regulatory & Welfare Visits
to Sexual Entertainment Venues/Sex Industry**

Name of person completing checklist:				
Organisation of person completing checklist:				
Venue Self-assessment? (+/✓)				
Date of visit:				
Time of visit:				
Venue name:				
Venue manager:				
	Not evidenced (+/<input checked="" type="checkbox"/>)	Partially evidenced (+/<input checked="" type="checkbox"/>)	Evidenced (+/<input checked="" type="checkbox"/>)	Comments
Age verification (ID) 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.				
Customer age verification is taken at the door using photo ID				
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.				
Staff notice boards Welfare information is displayed in staff areas (e.g. sexual health, sexual violence/abuse, mental health, drug and alcohol use, debt, immigration, domestic abuse)				
Under 25s – welfare information regarding young people, including college and university welfare services, is displayed in staff areas.				
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				
Dancers info and UK Network of Sex Work Projects information is displayed in staff areas 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 self-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.				