



**Notice of a public meeting of
Gambling, Licensing & Regulatory Committee**

To: Councillors Boyce (Chair), Cuthbertson, Douglas, Funnell, Gillies (Vice-Chair), Hyman, Horton, King, Looker, McIlveen, Orrell, Richardson, Riches, Taylor and Watt

Date: Monday, 27 January 2014

Time: 4.00 pm

Venue: The Severus Room - 1st Floor West Offices (F032)

A G E N D A

1. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Exclusion of Press and Public

To consider excluding the public and press from the meeting during consideration of annex 4 to agenda item 4 on the grounds that it contains information relating to individuals. This information is classed as exempt under Paragraph 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

3. Minutes

To approve and sign the minutes of the meeting held on 21st October 2013.

4. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00 pm on Friday 24th January 2014.**

5. Renewal of Sex Establishment Licence for (Pages 3 - 80) Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.

This report seeks Members determination of an application for the renewal of a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments.

6. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – laura.bootland@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

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Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

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interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

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Holding the Cabinet to Account

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business following a Cabinet meeting or publication of a Cabinet Member decision. A specially convened Corporate and Scrutiny Management Committee (CSMC) will then make its recommendations to the next scheduled Cabinet meeting, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
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- All public agenda/reports can also be accessed online at other public libraries using this link

<http://democracy.york.gov.uk/ieDocHome.aspx?bcr=1>

 CITY OF YORK COUNCIL	
Meeting of Gambling, Licensing & Regulatory Committee	27 January 2014
Report of the Assistant Director – Communities & Neighbourhoods	

**Local Government (Miscellaneous Provisions) Act 1982
Schedule 3 as amended by Policing and Crime Act 2009
Renewal of Sex Establishment Licence for
Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ**

Summary

1. This report seeks Members determination of an application for the renewal of a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.
2. Name of applicant: Upstairs VIP Limited
3. Summary of Application: A copy of the application is attached at Annex 1 of this report and is summarised as follows: This is a renewal of a pre-existing Sex Establishment Licence which authorised hours of opening Monday to Sunday 21:00 hrs to 03:00 hrs, and 18:00 hrs to 04:30 hours on York Race Days only. A copy of this licence is attached at Annex 2.
4. A sex establishment licence is valid for 12 months, the licence holder must submit an application to renew the licence to the licensing authority before the existing licence expires if they wish to continue running a sexual entertainment venue.

Background

5. On 6 April 2010, section 27 of the Policing and Crime Act 2009 was introduced. This legislation reclassified lap dancing clubs and other similar venues as 'sexual entertainment venues'; a sex establishment under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This allowed Local Authorities who adopted the provisions of the legislation to regulate lap dancing clubs and similar venues under the same regime as sex shops.
6. Sexual entertainment venues are defined as 'any premises at which relevant entertainment is provided for a live audience for the financial gain of the organiser or the entertainer'. The meaning of relevant entertainment is 'any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)'.
7. This Authority adopted the provisions of the legislation on 7 October 2010 when the resolution was approved by full council. A copy of City of York Council's Policy for the Determination of Applications for Sexual Entertainment Venues is attached at Annex 6.
8. The Licensing Authority has received no complaints about these premises since first opening.
9. Standard conditions for the licensed sex shops were amended to include sexual entertainment venues and were approved by full Council. The lack of problems from existing licensed premises would indicate that these conditions provide sufficient safeguards. A copy of the conditions is attached at Annex 7.

Consultation

10. Consultation was carried out by the applicant and the Licensing Authority in accordance with paragraph 10 of Schedule 3 of the 1982 Act relating to the process which the applicant must follow for the application to be considered valid.
11. As a result of the consultation an objection was received from representatives of the York Feminist Network. A copy of the objection is attached at Annex 3. The objection was accompanied by a petition, a copy of which is attached at Annex 4 (confidential). There are 2 parts to the petition, the first part shows the results of a website petition containing 182 electronic signatures (this total reflects a deduction for duplicate entries). Of these 182 entries, 26 gave no name of the petitioner and 24 were from outside the United Kingdom. The second part of the petition contains 64 names and addresses of petitioners, 3 of the entries were not signed. Eight out of the 64 petitioners were from the City of York Council area.
12. Schedule 3, paragraph 10(17) of the 1982 Act (as amended) states "The appropriate authority shall not without the consent of the person making the objection reveal his name or address to the applicant." Appropriate consent has been received to disclose the name of the organisation that made the objection.
13. A map showing the location of Upstairs, 53-55 Micklegate in relation to all premises/organisations referred to in the objection is attached at Annex 5 and a key to the map is attached at Annex 5A.

Other Relevant Information

14. There are no planning implications in relation to this application.

Options

15. By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee have the following options available to them in making their decision:
16. Option 1: Renew the licence.
17. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.
18. Option 3: Reject the application.

Analysis

19. The following could be the result of any decision made by this Committee:
20. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application.
21. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
22. Option 3: This decision could be appealed at Magistrates Court by the licence applicant.

Council Plan

23. The approved City of York Council Standard Conditions Applicable to Licences issued to Sex Establishments will support the Council's priority to protect vulnerable people and create jobs and grow the economy.

Implications

24.
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A

- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the objectors.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

25. All Members are aware that any decision which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
26. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

27. Members grant the application for renewal of the licence in the terms applied for.

Reason: This premise has operated as lap dancing venue since September 2006 without any reported incidents.

Contact Details

Author:	Chief Officer Responsible for the report:			
Lesley Cooke Licensing Manager Tel: 01904 551515	Steve Waddington Assistant Director Housing & Public Protection Tel 01904 554016			
	Report Approved	√	Date	08/01/14

Wards Affected: Micklegate

Annexes

- Annex 1** - Copy of application
- Annex 2** - Copy of current Sexual Entertainment Licence
- Annex 3** - Copy of the objection letter
- Annex 4** - Copy of petition (confidential)
- Annex 5** - Map of area indicating premises highlighted in Objection
- Annex 5A** - Key to map

Background Papers

- Annex 6** - Copy of CYC Policy for the Determination of Applications for Sexual Entertainment Venues
- Annex 7** - Copy of Standard Conditions Applicable to Licences issued to Sex Establishments
- Annex 8** - Legislation and Policy Considerations



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1982

SCHEDULE 3 - CONTROL OF SEX ESTABLISHMENTS

Application for the Grant / Renewal / Transfer of a Sex Establishment Licence
Sexual Entertainment Venues

Please complete this application form in ink and block capitals.

Type of application	Grant	Renewal	Transfer
		✓	

1. If application is made on behalf of an individual please state:

Full Name	Upstairs VIP Limited.		
Permanent address	53-55 Middlegate		
	York. YO1 6LS.		
Age	Date of birth	Place of birth	

2. Give full names and private addresses of all directors or other persons responsible for management of the establishment:

Name	Andrew George WHITNEY
Address	
Age	

Name	Matthew Anthony TROLLE
Address	
Age	

Name	Alexander Gwyn ROBINSON
Address	
Age	

Name	
Address	
Age	

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

Date of Conviction	Offence	Sentence (including suspended sentence)

- (a) All convictions must be disclosed
(b) Spent convictions, as defined below, should not be included

Sentence	Becomes spent after
Imprisonment of between 6 months and 30 months	10 years
Imprisonment of up to 6 months	7 years
Borstal training	7 years
A fine or other sentence not otherwise covered in this table	5 years
Absolute discharge	6 months
Probation order, conditional discharge or bind over	1 year (or until order expires, whichever is longer)
Detention Centre Order	3 years
Remand home, attendance centre or approved school order	The period of the order and a further year after the order expires
Hospital order under the Mental Health Act	The period of the order and a further 2 years after it expires
Cashiering, discharge with ignominy or dismissal with disgrace from the Armed Forces	10 years
Dismissal from Armed Forces	7 years
Detention	5 years

Note

- (i) A sentence of more than 2½ years imprisonment can never become spent.
(ii) If you were under 17 years of age on the date of conviction, please halve the period shown in the right-hand column.

4. Have you been resident in the United Kingdom throughout a period of six months immediately preceding the date of this application?

☒ YES ☐ NO

5. If the application is made on behalf of a body corporate is that body incorporated in the United Kingdom?

☐ YES ☒ NO

6. Full name and address of premise desired to be used as a sex establishment:

Name	Upsters VIP Ltd.
Address	53-55 Micklegate
	York YO1 6LJ

If this application relates to a vehicle/vessel/stall give description and state where it is to be used as a sex establishment:

7. On which days and hours do you wish to trade:

Monday	<input checked="" type="checkbox"/>	Tuesday	<input type="checkbox"/>	Wednesday	<input checked="" type="checkbox"/>	Thursday	<input checked="" type="checkbox"/>
Friday	<input checked="" type="checkbox"/>	Saturday	<input checked="" type="checkbox"/>	Sunday	<input checked="" type="checkbox"/>		

8. Are the premises licensed under the Licensing Act 2003?

~~YES~~ ☒ ~~NO~~

9. Are you (or, if a corporate or unincorporated body, that body) disqualified from holding a licence for a sex establishment?

~~YES~~ ☒ ~~NO~~

10. Have you ever been refused a licence for a sex establishment?

~~YES~~ ☒ ~~NO~~

If yes please give details

11. In the case of a transfer:

Name of Existing Licensee _____ being the
existing licensee of the within named premises hereby consent to the transfer of licence to _____

Signature _____ Date _____

I declare that I have checked the information given on this application form and to the best of my knowledge and belief it is correct, and that:

- (a) The fee is enclosed.
- (b) A copy of the application has been served on North Yorkshire Police, Headquarters, Fulford Road, York, YO10 4BY.
- (c) A notice publicising this application will be displayed for 21 days beginning with the date of the application on or near the premises and in a place where it can conveniently be read by the public.
- (d) Notice of the application will be given by publishing an advertisement in a local newspaper circulating in the local area. The publication of the notice shall not be later than seven days after the date of application.

Please provide contact details for correspondence associated with this application:

Name	Andrew G. Whithney		
Address			
Contact Number / Email			

Signed _

25/11/2013.

When completed this form should be returned to:
City of York Council
Licensing Services,
Hazel Court EcoDepot,
James Street, York, YO10 3DS

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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SCHEDULE 3 AS AMENDED BY POLICING AND CRIME ACT 2009

SEX ESTABLISHMENT LICENCE

The City of York Council hereby grant renewal of a Sex Establishment Licence to:

Upstairs VIP Ltd
53-55 Micklegate
York
YO1 6LJ

to use the premises known as:

Upstairs
(1st Floor Mansion Nightclub)
53-55 Micklegate
York
YO1 6LJ

for the purposes of a sex establishment comprising a sexual entertainment venue as defined in Schedule 3 to the above Act.

This Licence is granted subject to the City of York Council Standard Conditions Applicable to Licences Issued to Sex Establishments and to the additional conditions set out in the schedule below.

A fee of £1010.00 is to be paid by four instalments at quarterly intervals for this licence.
A fee of £1010.00 (198731) has been paid to date.

This licence shall continue in force from the date hereof until 30 November 2013 unless previously revoked.

Granted on 31 December 2012

Signed
For and on behalf of the Director of Communities & Neighbourhoods

SCHEDULE

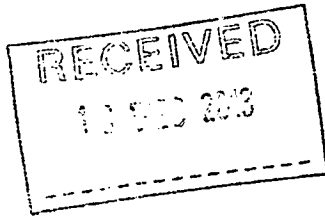
1. A copy of this Licence and any Regulations prescribing standard conditions made the authority must be kept exhibited in a position visible to customers.
2. Any external indication of the nature of the business is prohibited.
3. The creation of any new windows or other openings in the external structure of the building is prohibited.
4. This licence only covers the first floor of 53-55 Micklegate, York, YO1 6LJ.
5. That the standard hours of opening be limited to Monday to Sunday 21:00 hours to 03:00 hours. Non-standard hours of opening to be extended on York Racecourse Race Days only 18:00 hours to 04:30 hours.

Extract from the Local Government (Miscellaneous Provisions) Act 1982

APPEALS (Sched. 3, para. 27)

27. - (1) Subject to sub-paragraphs (2) and (3) below, any of the following persons, that is to say -
- (a) an applicant for the grant, renewal or transfer of a licence under this Schedule whose application is refused;
 - (b) an applicant for the variation of terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
 - (c) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
 - (d) a holder of any such licence whose licence is revoked.
- may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the relevant area.
- (2) An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified in paragraph 12(1) above shall not have a right to appeal under this paragraph unless the applicant seeks to show that the ground did not apply to him.
- (3) An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph 12(3) or (d) above shall not have the right to appeal under the paragraph.
- (4) In this paragraph -
- 'the relevant area' means -
 - (a) in relation to premises, the petty sessions area in which they are situated; and
 - (b) in relation to a vehicle, vessel or stall, the petty sessions area in which it is used or, as the case may be, desired to be used as a sex establishment;
 - and
 - 'the relevant date' means the date on which the person in question is notified of the refusal of his application, the imposition of the term, condition or restriction by which he is aggrieved or the revocation of his licence, as the case may be.
- (5) An appeal against the decision of a magistrates' court under this paragraph may be brought to the Crown Court.
- (6) Where an appeal is brought to the Crown Court under sub-paragraph (5) above, the decision of the Crown Court shall be final, and accordingly in section 28(2)(b) of the Supreme Court Act 1981 for the words 'or the Gaming Act 1968' there shall be substituted the words 'the Gaming Act 1968 or the Local Government (Miscellaneous Provisions) Act 1982'.
- (7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.
- (8) Subject to sub-paragraph (9) to (12) below, it shall be the duty of the appropriate authority to give effect to an order of the magistrates' court or the Crown Court.
- (9) The appropriate authority need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (5) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (10) Where a licence is revoked or an application for the renewal of a licence is refused, the licence shall be deemed to remain in force -
- (a) until the time of bringing an appeal under this paragraph has expired and, if such an appeal is brought, until the determination or abandonment of the appeal; and
 - (b) where as appeal relating to the refusal of an application for such a renewal is successful and no further appeal is available, until the licence is renewed by the appropriate authority.
- (11) Where -
- (a) the holder of a licence makes an application under paragraph 18 above; and
 - (b) the appropriate authority impose any term, condition or restriction other than one specified in the application, the licence shall be deemed to be free of it until the time for bringing an appeal under this paragraph has expired.
- (12) Where an appeal is brought under this paragraph against the imposition of any such term, condition or restriction, the licence shall be deemed to be free of it until the determination or abandonment of the appeal.

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C/O York Feminist Network

yorkfeministnetwork@hotmail.co.uk

Licensing Unit
Eco Depot
Hazel Court
York
YO10 3DS
licensing.unit@york.gov.uk

19 December 2013

Dear Entertainment Licensing,

We write with regards to the application for renewal of Sexual Entertainment Venue licence submitted by York City Centre lap dancing club 'Upstairs' (part of The Mansion) on Micklegate.

We are opposed to the presence of Sexual Entertainment Venues in York, and our objection is centred on four key arguments:

- That lap dancing club 'Upstairs' is located in proximity to premises of 'sensitive use'.
- That Sexual Entertainment Venues create 'no go' areas for women and local residents.
- That Sexual Entertainment Venues impact negatively on the character and family-friendly reputation of York.
- That Sexual Entertainment Venues promote gender inequality and serve to normalise the sexual objectification of women.

This objection is brought by members of our York Feminist Network, drawing on the work of human rights organisation Object and its supporters, including The Fawcett Society, Eaves, Million Women Rise, National Alliance of Women's Organisations, UK Feminista, White Ribbon Campaign and Women's Aid Federation of England. We have also obtained 246 signatures on our petition calling on York Council to reject the application for renewal of SEV licence from lap dancing club 'Upstairs'.

I enclose a report outlining in further detail the reasons for our objection.

Regards,

Objection to renewal of Sexual Entertainment Venue licence for lap dancing club 'Upstairs', Micklegate, York

This document outlines the reasons for our objection to the renewal of the Sexual Entertainment Venue (SEV) licence for York lap dancing club 'Upstairs'. It focuses on four key points of objection. All four points are made in accordance with York City Council's *'Policy for the Determination of Applications for Sexual Entertainment Venues'* and The Gender Equality Duty (2007) to which City of York Council has a responsibility to adhere.

The evidence presented in this document is based on consultation with the local York community; on research conducted by human rights and women's rights organisations such as Object and the End Violence Against Women Coalition; and as a result of extensive consultation with women's groups and concerned individuals across the UK. Collectively, we object to the renewal of the SEV licence for lap dancing club 'Upstairs' on the following grounds:

1. Proximity to premises of 'sensitive use'

We would argue that lap dancing club 'Upstairs' is situated in a locality which is highly inappropriate for an SEV given the uses to which nearby premises are put. We base our objections below on York City Council's *'Policy for the Determination of Applications for Sexual Entertainment Venues'* in which 'the grounds for granting or refusing the application' state that:

'A licence may be refused where any of the following matters mentioned in paragraph 12(2) and (3) of the Act applies:

- (d) That the grant or renewal of the licence would be inappropriate, having regard to the:
 - (ii) use to which any premises in the vicinity are put'

(ii) Use to which any premises in the vicinity are put

As stated in York City Council's 'Grounds for Granting or Refusing the Application':

"Sensitive uses will include places of worship, schools, youth clubs, community centres, women's refuges, parks and leisure facilities. A concentration of residential property particularly included sheltered accommodation for vulnerable groups may also cause concern."¹

¹ York City Council *'Policy for the Determination of Applications for Sexual Entertainment Venues'*, accessed December 2013

Lap dancing club 'Upstairs' is located in a particularly unsuitable area, in close proximity to the majority of the above mentioned premises:

- a) Places of worship - all with regular services
 - a. The Priory Church (54m)
 - b. York Baptist Church (52m)
 - c. The Rock of York (84m)
 - d. Bar Convent (180m)
 - e. St Mary's Church (230m)
 - f. St Columbas with New Lendal (200m)
- b) Schools/Nurseries
 - a. Priory Street Nursery (120m)
 - b. All Saints Roman Catholic school (240m)
- c) Community Centres
 - a. The Priory Centre (160m) – facilitating a range of local charities including York IDAS, Survive and York Women's Counselling Service.
 - b. York CVS (110m) - York CVS supports local charities, community groups and social enterprises, improving and enriching the lives of local people.
 - c. Family Matters (180m) – the charity is working with 'with some of the most fragile families across the city'.²
- d) Women's refuges/vulnerable groups services (within the vicinity of Priory Street Centre)
 - a. IDAS (160m) - IDAS is a charity that provides comprehensive support services to all those experiencing or affected by domestic abuse. IDAS provides support to women, men, and sometimes children and young people who are living in the community.
 - b. Survive (160m) - Survive offers a safe place for survivors of rape and sexual abuse to come to where their experiences will be listened to and understood.
 - c. York Women's Counselling Service (160m) - York Women's Counselling Service provides a counselling service for women in York and surrounding areas who are experiencing difficulties as a result of current or past emotional stress and trauma. Their aim is to provide an atmosphere of trust, safety and support.
 - d. Jessie's Fund (160m) - Jessie's Fund was established as a registered charity in April 1995 with the aim of helping seriously ill and disabled children in all areas of the UK through the therapeutic use of music.
 - e. Mainstay (mental health service) (160m) – Mainstay works with people who have mental health issues to motivate and encourage them to reach their goals.

² <http://fmy.org.uk/about-us/what-we-do>

- f. BASPCAN (British Association for the Study and Prevention of Child Abuse and Neglect) (160m) – BASPCAN is a registered charity which aims to prevent physical, emotional and sexual abuse and neglect of children by promoting the physical, emotional, and social well-being of children.
- g. Skills For Care (160m) – Skills for Care works with adult social care employers and other partners to develop the skills, knowledge and values of workers in this sector.
- h. Inclusion Housing (160m) – Inclusion Housing is a not for profit, voluntary housing organisation that work with and on behalf of vulnerable people.
- i. Reflect (160m) - Reflect is a free support service based in York that is specifically for women and men facing an unplanned or crisis pregnancy.
- j. Priory Street Nursery (160m)
- k. Bon Social Club (160m) – Brunswick Nursery social club supporting adults with learning difficulties.

e). Residential property

There are residential properties on both Micklegate and Priory Street, and the Bishophill area of York is located directly behind both.

Local councils across the country such as Leeds, Oxford and Haringey have taken very seriously the issue of lap dancing clubs being located in close proximity to premises of sensitive use. So too have individual councillors, as well as local residents/visitors to whom we have spoken. Regarding the closure of a lap dancing club in Oxford, The Oxford Mail reported that:

*'The [lap dancing] club had to move from Pennyfarthing Place in the city centre in 2011, when it was Thirst Lodge, over council concerns it was too close to St Ebbes Church and tourist spots.'*³

Individual councillors have also raised their voices with regards the location of lap dancing clubs in sensitive areas. Haringey Councillor Nilgun Canver said of the SEV legislation:

*"This new legislation allows us to stop lap dancing and pole dancing clubs from setting up in sensitive areas where they will cause concern. We consider this would apply to every ward and want this to be central to our policy. We are asking for comments from residents, to see if they support this stance."*⁴

'Upstairs' is located in close proximity to support workers and volunteers endeavouring to support a huge range of vulnerable groups – particularly women. This is of particular concern in light of evidence highlighting that, in a two year period (comparing 2008/09 and 2010/11), sexual and violent crime in Bristol increased by 82% within a 50m radius of Sexual Entertainment Venues

³http://www.oxfordmail.co.uk/news/10517521.Lap_dance_club_facing_closure_after_losing_High_Court_appeal/?ref=mr

⁴http://www.haringey.gov.uk/index/news_and_events/latest_news/lap_dancing_ban.htm

compared to 45% in the rest of the city centre area⁵. A senior Police Officer in Cornwall observed a similar link, expressing his concern that *"having been subject to highly sexualised performances, (those individuals leaving a Sexual Entertainment Venue) may be at greater risk of committing sexual offences."*⁶ Our consultation with local residents in York has revealed incidents of indecent exposure which have taken place on Micklegate. Here is what [redacted] had to say:

"I volunteer for one of the organisations at Priory Street Centre that supports vulnerable individuals. One day after an intense day of training about sexual violence, I was walking home past Micklegate and in the middle of the street a drunk man flashing himself. I felt uncomfortable and could not stop thinking how one of the women I support as a volunteer would have felt if she walked back from a session at our organisation. Micklegate has become a horrible place to walk, especially if you are a woman and it is night time."

[redacted], volunteer at local charity

And York resident, Rachel:

"The last time I walked down Micklegate on an evening, a man exposed his genitals to me. I was 18 years old and I felt incredibly intimidated."

In the absence of similar analysis conducted in York to which we can point, we refer you to the consultation undertaken by Leeds City Council with the Citizen's Panel in January 2013. The survey – issued to residents of Leeds – received 1499 online responses and 353 postal responses, with results demonstrating that a majority of residents regarded Sexual Entertainment Venues to be inappropriate in proximity to premises of 'sensitive use', including women's refuge facilities, residential areas, retail shopping areas, historic buildings and places of worship – all of which can be found within the Micklegate and Priory Street area. Leeds City Council agreed that these uses are sensitive, and that SEVs are generally inappropriate in proximity to them⁷.

2. Creating 'no go' areas for women and local residents

The location of important amenities in the vicinity of lap dancing club 'Upstairs' directly exposes residents, tourists and commuters to the harms and disturbance associated with the sex industry (particularly verbal, physical and sexual assaults). This can and does create 'no go' areas, particularly for women.

Below is a list of transport hubs in proximity to lap dancing club 'Upstairs':

⁵ <http://coventrywomensvoices.files.wordpress.com/2011/12/police-rpt-vaw-control-areas-nov111.doc>

⁶ <http://www.bbc.co.uk/news/uk-england-cornwall-18199223>

⁷ Leeds City Council 'Licensing of Sex Establishments: Statement of Licensing Policy' Section 7 'General Principles', 'Appropriate numbers and localities' Point 7.11 and 7.12.

- a. York Railway station (600m) – *Opened 1877, York is one of the most important railway junction stations on the British railway network and a tourist attraction in itself, with the Railway Museum located nearby.*
- b. Nunnery Lane Car Park (500m) – *car park used by locals and visitors to access to City Centre (via Micklegate)*
- c. Bus stops on Rougier Street, Blossom Street and at the bottom of Micklegate.

It is clear that a lap dancing club in close proximity to such amenities is not appropriate for a number of reasons; most especially, the impact it can have on perceptions of safety. Use of and access to amenities is, for many, dependent on the use of Micklegate (located just over 1km from the main shopping streets of York). Many visitors arriving in York by car make use of the Nunnery Lane car park to make their way into York City centre, thereby passing 'Upstairs'. Similarly, commuters on their way to and from York railway station may too need to walk in proximity to 'Upstairs' late at night or in the early morning hours. This is considered by respondents to the York Feminist Network's consultation to impinge on their ability to make use of such amenities in the evening and at night. Tony, who lives in close proximity to 'Upstairs', said:

"I have to go and collect my wife from York railway station when she gets in late from Leeds where she works as she finds it too intimidating to walk alone through the groups of lecherous young men roaming the area around Micklegate - it is sadly unsurprising on any given evening to hear them wolf whistling, leering and even see them masturbating in the streets."

Skeldergate local

Female commuters arriving back into York at a late hour and needing to access either the city centre or the residences on or around Micklegate are faced with having to walk past 'Upstairs' and its 'patrons' during operational hours. As noted by the Royal Town Planning Institute:

*'In relation to the 24-hour economy policy, ensure that the views of women are considered. Evidence shows that in certain locations, lap dancing and exotic dancing clubs make women feel threatened or uncomfortable.'*⁸

We therefore urge the Committee to consider 'That there are places in the locality where women are likely to be vulnerable to the higher levels of harassment associated with sexual entertainment venues' (taken from Dr James Harrison's legal advice⁹ on SEV Licensing).

It is unacceptable that people (particularly women, minors and the vulnerable) have to, on a regular basis, walk in proximity to 'Upstairs' where groups of intoxicated and sexually excited

⁸ Royal Town Planning Institute (2007), Gender and Spatial Planning, Good Practice Note 7, 10 December 2007

⁹ Dr. James Harrison, Co-Director, Centre for Human Rights in Practice, School of Law, University of Warwick. Sexual Entertainment Venues – *A rational decision that no venues should be granted licenses in a particular area will not breach human rights law.*

males gather. Indeed, in the case of Vimax Leisure and Durham City Council, the factor of local transport hubs was cited as a legitimate reason for the refusal of a premises license with attached adult entertainment provisions, due to the high numbers of minors congregating in the region of a local bus and railway station¹⁰.

Visitors to York who have signed our petition (opposing the renewal of SEV licence for 'Upstairs') had strong objections with regards the safety and treatment of women:

"I regularly visit my friend in York and knowing that there is a lap dancing club in the centre makes me feel unsafe plus I think lap dancing clubs send out the message that it's perfectly acceptable for women to be dehumanised and objectified. This is 2013. Surely it's time to start valuing women and girls for more than their sexual desirability and availability to men. Show some respect to the females that live, work and play in your city. Let them feel comfortable and valued."

*, United Kingdom
(Petition respondent)*

The volume of responses that we received stating that women would avoid having to make use of amenities in proximity to a lap dancing venue demonstrates that the location of 'Upstairs' is, in effect, curtailing the ability of women to access the city centre and Micklegate area in the evening and at night. It is creating a second-class citizen status for women and runs directly counter to York City Council's responsibility (under The Gender Equality Duty) to assess the gendered impact that lap dancing clubs have on society as a whole.

, from the North-East Feminist Network urges City of York Council to take into consideration the 'no go' area that Micklegate is becoming:

"Sexual violence is increasing, why make more areas of our cities a no go area for WOMEN"

, United Kingdom

3. Character of the relevant locality / Impacting York's family-friendly reputation

With regards the 'Policy for the Determination of Applications for Sexual Entertainment Venues', York City Council's 'grounds for granting or refusing the application'¹¹ state that:

'A licence may be refused where any of the following matters mentioned in paragraph 12(2) and (3) of the Act applies:

¹⁰ Object.co.uk

¹¹ York City Council, Policy for the Determination of Applications for Sexual Entertainment Venues, accessed December 2013

(d) That the grant or renewal of the licence would be inappropriate, having regard to the:

(i) character of the relevant locality;

(i) Character of the relevant locality:

Lap dancing club 'Upstairs' is located in close proximity to a wide range of tourist attractions and key services to the community and visitors. Below is a list of key historical, tourist and transport hubs of York that 'Upstairs' is located in close proximity to:

- a. Micklegate Bar (approx. 100m) - *Micklegate Bar was the most important of York's four main medieval gateways and the focus for grand events*
- b. The Bar Convent (approx. 180m) - *England's oldest convent, founded in 1686 and still active with a resident religious community. Currently, the Bar Convent also hosts regular meetings and workshops for women who have suffered sexual abuse and rape.*
- c. York Railway station (600m) – *Opened 1877, York is one of the most important railway junction stations on the British railway network and a tourist attraction in itself, with the Railway Museum located nearby.*
- d. Nunnery Lane Car Park (500m) – *car park used by locals and visitors to access to City Centre (via Micklegate)*

Impacting York's family-friendly reputation:

I love York! Let's keep it the wonderful place it is, not a tacky sexist place!
_____, United Kingdom (Petition respondent)

York is a city which prides itself on its reputation as one of England's most historic and beautiful cities, with Visit York's Vision for Tourism proudly declaring its hope to 'Build on York's distinctiveness'¹². A uniqueness that many feel is simply not in accordance with the presence of a Sexual Entertainment Venue in the city. When lap dancing club Bohemia opened in York, Councillor Andrew Waller 'expressed concerns that the presence of Bohemia, which stands by the ancient entrance to the city, may deter tourists as it is "not the sort of York they've come to see"'¹³.

Indeed, York's Official Visitor Information Service outlines what visitors can hope to expect from a trip to York:

¹² <http://www.visitork.org/members/about/mission.aspx>

¹³ <http://www.nouse.co.uk/2007/01/23/new-strip-club-in-york/>

*"With its rich ancient history, romantic ambience and fun activities, York is the perfect holiday destination for couples, families and groups. Renowned for its exquisite architecture, tangle of quaint cobbled streets, iconic York Minster and wealth of visitor attractions, York is a flourishing city."*¹⁴

It is certainly not an isolated view to suggest that Sexual Entertainment Venues impact negatively on a city's character and reputation, as noted in the Leeds Council policy for SEVs:

*'The council believes that...SEVs are not in accordance with a culturally rich and diverse city. In particular SEVs tend not to be inclusive facilities, appeal only to a narrow sector of the community and are unlikely to enhance the cultural and child friendly reputation of the city.'*¹⁵

Going one step further, Leeds City Council has established as a priority the family-friendly appeal of their city. They believe that it is important that 'Children and young people find the city centre welcoming and safe, with friendly places to go, have fun and play' and that 'There are places and spaces to play and things to do, in all areas and open to all'¹⁶. Swansea City Council, likewise, rejected the licence for Swansea's sole lap dancing club because 'The city centre aims to be a place which is welcoming to families at all times of the day and evening.'¹⁷

Lap dancing club 'Upstairs' is not a destination for families, catering predominantly for groups of men. You need look no further than their Facebook page to see this confirmed:

*'Off to a great start already! Big stag party banging our doors down!! #lads and they ain't leaving! Come join the party! See you soon fellas!!'*¹⁸

A 'target audience' for the lap dancing club (self-defined 'York's Premiere Gentlemen's Club') which was again confirmed when a former employee of 'Upstairs' informed us that:

"The people going to Upstairs were mainly groups of lads from Newcastle. They were in York drinking and I would only target them with the leaflets basically."

Woman, 30+, previously working for Upstairs

Local residents argue that efforts to upgrade the area into a safe, welcoming and respectable part of York that attracts a broader segment of the population is being severely inhibited by the presence of lap dancing club 'Upstairs'.

¹⁴ <http://www.visityork.org/>

¹⁵ Leeds City Council 'Licensing of Sex Establishments: Statement of Licensing Policy' Section 7 'General Principles' 'Appropriate numbers and localities' Point 7.9

¹⁶ Leeds City Council 'Licensing of Sex Establishments: Statement of Licensing Policy' Section 5 'Integrating other guidance, policies, objectives and strategies', 'Child Friendly' Point 5.5.

¹⁷ <http://www.bbc.co.uk/news/uk-wales-south-west-wales-23463209>

¹⁸ <https://www.facebook.com/Upstairs.York>

As a labour controlled council you should be promoting positive messages about the place of women in society /.../ Research show that violent assaults against women increase where there are lap dancing clubs. Please make York a safe place for women and girls

*, United Kingdom
(Petition respondent)*

4. Promoting gender inequality and normalising the sexual objectification of women.

The Gender Equality Duty 2007 legally requires local authorities to promote equality between women and men in all that they do. The Gender Equality Duty is particularly relevant in relation to the licensing of sex establishments because of the gendered nature of sex establishments like lap dancing clubs, and because of the negative impact that lap dancing clubs have on efforts to promote equality between women and men.

"Lap-dancing clubs should not normalise the objectification of women. Please do not renew this licence."

*, United Kingdom
(Petition respondent)*

"Lap dancing clubs have no place in the 21st Century. Women are people, they are not objects to be sold for sexual objectification."

Anonymous petition respondent

The Equality Act (2010) too places every public authority under a duty to "in the exercise of its functions, have due regard to the need to ... eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010."

Lap dancing, it must be remembered, is an industry in which:

'men exercise their social, sexual and economic authority over women who are dependent on them and are organised according to gender inequality, which is perpetuated in gendered spaces and consequently sexualised. The typical strip club scenario displays young, nude or partially nude women for fully clothed male customers. When organizations are produced in the context of the structural relations of domination, control and violence, they reproduce those relations.'
(Holsopple 1999).

This is a gender imbalance which is starkly reflected in a study researching male motivations for visiting strip clubs. The results demonstrated not only that men frequented strip clubs in search of women who were willing to act in more 'traditional' ways, but that in fact they sought an outlet

for their frustration at the ways in which they had been forced to monitor their behaviour towards women in the workplace because of equal opportunities and sexual harassment legislation¹⁹.

Leeds City Council has acknowledged that 'the licensing of these establishments must not encourage discrimination against women, especially with regard to women who work at the premises, women who may wish to visit the premises, or women who are using the area for other purposes but who may feel intimidated by the presence of such premises.'²⁰

The reality however is that sexual entertainment venues do discriminate against women, with research indicating that as lap dancing clubs and strip clubs appear, women's quality of life deteriorates as a result with increased reports of rape²¹.

In response to research it commissioned into the impact of lap dancing clubs on the city, Glasgow City Council stated that:

"Images of women and entertainment which demean and degrade women portraying them as sexual objects play a part in normalising sexual violence and contribute to male abuse of women being acceptable, tolerated, condoned and excused. Such entertainment runs counter to explicit commitments by a range of private, public and voluntary agencies to promoting women's equality."²²

This view is supported by the human rights organisation Object who argue that the mainstreaming of the sex and pornography industries has led to the ever increasing sexual objectification of women and girls. There is growing evidence that 'sex object' culture – fed by the rapid growth in the number of lap dancing clubs - is conducive to violence against women. The Chair of Rape Crisis, Dr Nicole Westmarland, agrees that lap dancing clubs "both support and are a consequence of sexual violence in society." This position is reiterated by the Director of the White Ribbon Campaign, an organisation which works with men to end violence against women, who states: "Any expansion of lap dancing clubs feeds an increase in the lack of respect for women"²³.

Personal testimonies from women, in addition to hundreds of responses to council consultations nationally on the issue, further reinforce the link between the proliferation of lap dancing clubs and increased levels of sexual harassment for women:

¹⁹ Frank, K. (2005) 'Exploring the Motivations and Fantasies of Strip Club Customers in Relation to Legal Regulations', *Sexual Behaviour*, Vol. 34 (5), pp. 487 – 504

²⁰ Leeds City Council 'Licensing of Sex Establishments: Statement of Licensing Policy' Section 7 'General Principles', 'Equality Act 2010' Point 7.27

²¹ Eden, I. (2003) *The Lilith Report on Lapdancing and Striptease in the Borough of Camden*. London: Eaves

²² <http://www.glasgow.gov.uk/NR/rdonlyres/0D19236F-808A-4467-96F7-6A9508C1F312/0/legtablic2.pdf>

²³ Both quotes are from an OBJECT leaflet, 2008

'On separate occasions, I have had men say to me "How much for a dance love? I'll give you £20 to get yours out,"... they seem to always think that because they can pay to degrade and abuse women inside the club that I am no different'²⁴.

The presence of lap dancing clubs in city centres completely normalises and makes acceptable the idea that women are sex objects, there for the sexual gratification of men. The perpetuation of this kind of misogynistic culture affects all of us, not just the people who choose to work at/visit the clubs.

*United Kingdom
(Petition respondent)*

So-called 'sexual entertainment' venues are not sources of 'harmless entertainment' but lead to physical and psychological violence and abuse of women and we do not we do not want York to inadvertently add to a culture that restricts life choices and then attribute the choice made to lap-dance for a living as "a lifestyle choice".

*United Kingdom
(Petition respondent)*

YES, we know that some women individually choose to do this. NO, this does not change the fact that normalising the sexual objectification of women is wrong and should be opposed. THANK YOU.
Anonymous petition respondent

Having met with women who have "survived" and gotten off the 'natural path' to prostitution that so many lap-dancing clubs encourage, we know these clubs are more than just a place where women are forced to titillate men for money. Forget the 'glamorous' face of lap-dancing: it doesn't exist. Time to put a stop to the ongoing normalisation of this type of public objectification and demeaning of women

United Kingdom

I believe that lap dancing clubs demean both the women who work there and the men who frequent them as they are yet another way of objectifying both parties.

*United Kingdom
(Petition respondent)*

As a fellow feminist, I'm glad to see some action taken to help prevent the underlying exploitation in the 21st century modern era

*United Kingdom
(Petition respondent)*

²⁴ See www.object.org.uk for testimonies

Concluding Remarks

The name of Micklegate comes from 'Micklelith', meaning 'great street'. Judging from the responses that we have received in the course of our consultation, both from tourists and local residents, Micklegate is today a poor resemblance of what it might once have been.

Members of the York Feminist Network, drawing on the work of human rights organisation Object and its supporters, argue that rejecting the application for renewal of SEV licence from lap dancing club 'Upstairs' is not only a reasonable and appropriate measure, but one that sets a standard demonstrating that City of York Council prioritises the well-being of the local community, and in particular women. Indeed, as noted by the Women's National Commission:

'The End Violence Against Women (EVAW) Coalition produced additional guidance on the Gender Duty's implications in terms of violence against women...Lobby groups can and should use the Duty as a tool to force public bodies to consider the way their policies affect women. When this is done effectively, public bodies may be forced to change their policies. For example, a significant victory was won for the women's sector in December 2007 when Rape Crisis UK used the Gender Equality Duty to persuade a local authority to close a local lap-dancing club.'²⁵

In rejecting the application for renewal of SEV licence, York City Council would join the ranks of Councils across the UK that have already refused to grant a licence / rejected renewal of a licence and/or set a nil cap on SEVs in their locality, thereby setting an example to the rest of the country. Certainly, a city of York's standing should consider its priorities and obligations, and pledge to help make Micklegate a 'great street' once more.

Yours Sincerely,

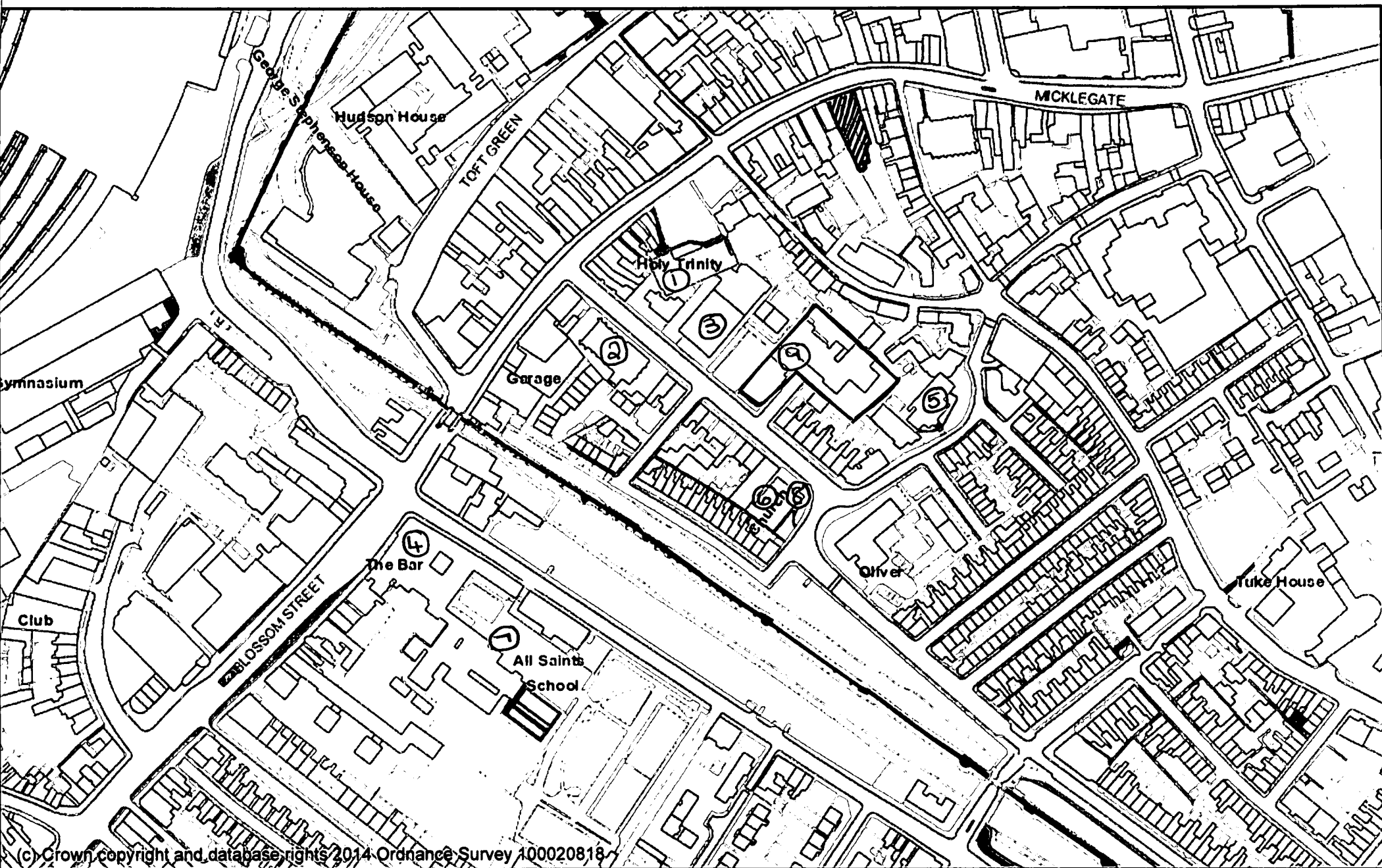
²⁵ <http://wnc.equalities.gov.uk/work-of-the-wnc/wnc-work-gender-equality/about-the-gender-equality-duty.html>

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By virtue of paragraph(s) 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Upstairs VIP Ltd

Map Notes:

Date: 09/01/2014

Author:



2

ANNEX 5A

KEY TO MAP

(premises/organisations referred to in objection)

- 1) The Priory Church (Holy Trinity), Micklegate
- 2) York Baptist Church, Priory Street
- 3) The Rock of York, Priory Street
- 4) Bar Convent, Blossom Street
- 5) St Mary's Church, Bishophill Junior
- 6) St Columbus with New Lendal United Reform Church, Priory Street
- 7) All Saints RC School, Mill Mount Lane
- 8) Reflect, 32 Priory Street (located within no. 6)

- 9) The Priory Centre, 15 & 17 Priory Street. The following organisations are based at the Centre:
 - a) York CVS
 - b) Priory Street Nursery
 - c) Family Matters
 - d) Independent Domestic Abuse Services (IDAS)
 - e) Survive
 - f) York Women's Counselling Service
 - g) Jessie's Fund
 - h) Mainstay
 - i) BASPCAN (British Association for the Study and Prevention of Child Abuse and Neglect), 17 Priory Street
 - j) Skills for Care
 - k) Inclusion Housing
 - l) Brunswick Nursery Social Club (BON)

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Policy for the Determination of Applications for Sexual Entertainment Venues

In determining applications for sexual entertainment venue licenses the Licensing and Regulatory Committee shall treat each application on an individual basis, on its own merits, in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

A decision to refuse the licence may not be made solely on moral grounds or that the establishment may cause offence.

Grounds for Granting or Refusing the Application

A licence **must be** refused on any of the grounds listed in paragraph 12(1) of Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982, that is to say:-

- to a person under the age of 18;
- to a person who is for the time being disqualified as being a licence holder whose licence has been revoked within the previous 12 months;
- to a person, other than a body corporate, who is not resident in the United Kingdom or who was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- to a body corporate that was not incorporated in the United Kingdom; or
- to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

A licence **may be** refused where any of the following matters mentioned in paragraph 12(2) and (3) of the Act applies:

- (a) The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason:
- Officers will make diligent enquiries with the applicant to establish:-

- That the operator is honest.
- That the operator is qualified by experience to run the type of sex establishment in question.
- That the operator understands the general conditions.
- That the operator is proposing a management structure which delivers compliance with the operating conditions, e.g. through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for welfare of performers.
- That the operator can be relied upon to act in the best interests of performers, eg 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.
- That the operator can be relied upon to protect the public, eg transparent charging, freedom from solicitation.
- That the operator can show a track record of management of compliant premises, or that s/he will employ individuals who have such a track record.

(b) That if the licence were to be granted, renewed, varied 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, variation or transfer of such a licence if he made the application himself:

- Officers will establish that there would be no third party beneficiary by asking appropriate questions in the application form and by interviewing the applicant.

(c) That the number of sexual entertainment venues 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 that locality:

- The number can be nil, but this decision needs to be rationally underpinned. The Council has not determined any appropriate number of sexual entertainment venues.

(d) That the grant or renewal of the licence would be inappropriate, having regard to the:

- (i) character of the relevant locality; or
- (ii) use to which any premises in the vicinity are put; or
- (iii) layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

- (i) The character of the relevant locality. Relevant locality is defined in relation to premises as “the locality where they are situated”. The locality cannot include for example the whole of the administrative area or an entire town. The relevant locality might cover the area of a ward, specific estates, shopping areas or areas bounded by rivers and major roads. The relevant locality will be determined on a case by case basis dependent on the situation of the proposed licensed premises.
- (ii) The use to which any premises in the vicinity are put. Vicinity is not defined but is clearly an area smaller than relevant locality. It maybe considered in the same context as with the Licensing Act 2003. Regard should not only be had to the juxtaposition of uses within the vicinity but also to the times of operation or occupation of those uses. Sensitive uses will include places of worship, schools, youth clubs, community centres, women’s refuges, parks and leisure facilities. A concentration of residential property particularly included sheltered accommodation for vulnerable groups may also cause concern.
- (iii) The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made. The premises should meet or can be made to meet the layout and structural requirements set out in the “standard conditions applicable to licences issued to sex establishments”.

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ANNEX 7**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982****STANDARD CONDITIONS APPLICABLE TO LICENCES ISSUED TO
SEX ESTABLISHMENTS**

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1.0 DEFINITIONS

1.1 In these conditions save when the context otherwise requires the following expressions shall have the following meanings:

- a) “Sex Establishments”, “Sexual Entertainment Venues”, “Sex Cinema”, “Sex Shop” and “Sex Article” shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
- b) “Premises” means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of licence for a sex establishment granted under the said Third Schedule.
- c) “Approval of the Council” or “Consent of the Council” means the approval or consent of the Council in writing.
- d) “The Council” means the City of York Council.
- e) “Film” shall have the meaning ascribed to it in the Films Act 1960-1980.

2.0 GENERAL

2.1 In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.

2.2 The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

3.0 TIMES OF OPENING

3.1 Except with the written consent of the council, the premises shall not remain open to the public outside the hours licensed.

4.0 CONDUCT AND MANAGEMENT OF SEX ESTABLISHMENTS

- 4.1 Where a Licensee is a body corporate or an un-incorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change. Such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
- 4.2 The Licensee or a responsible person nominated by him in writing for the purpose of managing the sex establishment in his absence and of whom details (including 2 photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the premises during the whole time they are open to the public. This condition shall be read in conjunction with condition 4.3 below.
- 4.3 The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the sex establishments in his unavoidable absence, and the names and addresses of those employed in the sex establishment. The register is to be completed each day within 30 minutes of the sex establishments opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
- 4.4 The name of the person responsible for the management of a sex establishment be he/she the Licensee or a Manager approved by the Council shall be prominently displayed within the sex establishment throughout the period during which he/she is responsible for its conduct.
- 4.5 The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.
- 4.6 The Licensee shall maintain good order in the premises.
- 4.7 No person under the age of 18 shall be admitted to the premises and no person under the age of 18 shall be employed in the business of a sex establishment.
- 4.8 A notice stating that persons under the age of 18 may not enter the premises shall be prominently displayed at the entrance.
- 4.8 The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

- 4.9 No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.
- 4.10 Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of personal solicitation outside or in the vicinity of the premises.
- 4.11 The Licensee shall comply with all statutory provisions and any regulations made thereunder.
- 4.12 The Licensee shall ensure that during the hours the sex establishment is open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee. In the case of Sexual Entertainment Venues other approved forms of identification maybe accepted.
- 4.13 A copy of the licence and of these conditions shall be exhibited in a prominent place within the premises where the public may see and read them. These displays shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and the copy of these conditions shall be retained in a clean and legible condition.

5.0 USES

- 5.1 No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
- 5.2 No change between the uses of a sex shop, sex cinema or sexual entertainment venue shall be effected without the consent of the Council.
- 5.3 Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.
- 5.4 A sex shop shall be conducted primarily for the purpose of the sale or hire of goods by retail.

6.0 GOODS AVAILABLE IN SEX ESTABLISHMENTS

- 6.1 All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the shop the respective prices being charged.
- 6.2 All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the sex establishment.
- 6.3 The Licensee shall, without charge, display and make available in the Licensed Sex Establishment, such free literature on infections, safer sex, local services and other related sexual health issues as may be published by York Teaching Hospital NHS Foundation Trust or successor organisation and any other providers as maybe. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash points in the Licensed Sex Establishment.

7.0 APPEARANCE, CONDITION AND LAYOUT OF THE PREMISES

- 7.1 The Licence Holder shall comply with requirements relating to external appearance of the licensed premises as the Council may consider reasonably necessary. The Licensee shall give prior notice to the Council of any proposed change to the external appearance of the premises and shall support the prior notice by the submission of detailed drawings to show the proposed changes.

- 7.2 Without prejudice to the generality of condition 7.1 above, no display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises unless the prior approval of the Council has been received in writing.
- 7.3 The entrance doors to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.
- 7.4 Windows and openings to the premises other than the entrances shall be obscured in a manner and with such material as may be approved by the Council. Plans and drawings showing the proposed scheme shall be submitted to the Council for prior approval. This condition shall not be construed as lessening the obligation of the Licensee under condition 7.3 hereof.
- 7.5 Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of time that the sex establishment is open to the public.
- 7.6 The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:
- a) Access to the premises may only be through 2 or more doors placed consecutively, so arranged that when a person enters or leaves the premises the interior of the premises is not recognisable to persons outside the premises.
 - b) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit".
 - c) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "Private".
 - d) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.

- 7.7 The external doors to the sex establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 7.8 No fastening of any description shall be fitted upon any booth or cubicle within the sex establishment nor shall more than 1 person (including employee be present in any such booth or cubicle at any time).
- 7.9 Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
- 7.10 All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

8.0 ADDITIONAL CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

- 8.1 The premise will be conducted in a decent, sober and orderly manner at all times. Steps will be taken to ensure that none of the following takes place:
 - a. indecent behaviour including sexual intercourse
 - b. the offer of any sexual or other indecent service for reward
 - c. unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971.
 - d. any acts of violence against persons or property and/or the attempt or threat of such act likely to cause a breach of the peace.
- 8.2 No one under the age of 18 shall be permitted to enter the premises (or remain on the premises) whilst entertainment of an adult nature is being provided.
- 8.3 All performers shall be over 18 years of age.
- 8.3 Notices to be displayed within the premises and at the entrance informing customers of the "House Rules" that affect them and a warning that "adult entertainment" is provided within the premises.
- 8.4 Written information shall be given to the dancers/entertainers advising them of the house rules for performers and customers and possible consequences of failure to comply.
- 8.5 Adult entertainment shall not take place in a location that could be viewed from outside the premises.

- 8.6 Advertising of adult entertainment either on the premises or otherwise shall not include any photographs or images which indicate that entertainment involving nudity or sexual performance takes place on the premises.
- 8.7 CCTV for both monitoring and recording shall be installed, maintained and operated in accordance with Data Protection guidelines and will cover all areas where dancing takes place. All cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a period of 28 days with times and dates indicated. These recordings shall be kept secure and shall be made available to an authorised officer of the Local Authority or a Police Officer on request.
- 8.8 Performers shall be provided with separate dressing/changing rooms which shall be located so as to be separate and set apart from the public facilities. No person other than performers and authorised staff will be allowed in or near the dressing/changing room. Safe and controlled access to the dressing/changing room will be maintained at all times.
- 8.9 There shall be at least one female member of staff authorised to be responsible for the safety and welfare of the performers.
- 8.10 SIA (Security Industry Authority) registered door supervisors shall be positioned at all entrances to the premises throughout the performance and shall be present in the room/area in which the performance takes place.
- 8.11 Dance entertainment shall be given only by performers/entertainers who are engaged exclusively for that purpose. Audience participation shall not be permitted.
- 8.12 Dance entertainment shall only be performed in the areas of the club as marked on the plans deposited with the Licensing Authority and with the Authority's approval. These areas can only be changed with the approval of the Licensing Authority.
- 8.13 If performers are invited to have a drink with a customer, the performer will remain fully clothed during this period. Performers will not be paid commission on the sale of beverages.
- 8.14 On leaving the premise performers will be escorted to their transport by a door supervisor.

- 8.15 Adult entertainment shall not take place before 9.00 pm.
- 8.16 The premises licence holder shall ensure that the house rules for both customers and performers are strictly adhered to.

ANNEX 1

House Rules (Customers)

1. Dancers may only dance to seated customers.
2. Customers must remain clothed at all times.
3. Dancers must not be touched by the customer while they are dancing except for the placing of gratuities into the hand or garter of the dancer at the beginning or conclusion of the performance.
4. No person shall take any video recordings or photographs by any means of the authorised adult entertainment.
5. No persons other than performers and authorised staff shall be permitted in the dressing/changing rooms.
6. Dancers shall re-dress at the conclusion of the performance.
7. Customers who fail to comply with these rules shall be removed from the premise by the management or security staff
8. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
9. The duty manager and security staff will ensure that all customers and performers adhere to the house rules.

ANNEX 2

House Rules (Performers)

1. All performers shall be over 18 years of age. Prior to engagement all performers will provide documentation that they are aged 18 years or over. Checks will be made to make sure the necessary legal work permits to work in the United Kingdom are in place. Should performers be employed from agencies the same checks will be carried out. Management shall keep written record of these checks which shall be available to authorised officers of the council and the Police.
2. No performer shall be allowed to work, if under the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
3. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
4. Performers shall not use any props or clothing in the act which portrays them as a minor.
5. Garters worn for the collection of gratuities shall be situated no higher than mid thigh.
6. Dancers shall re-dress at the conclusion of the performance and are to remain clothed (minimum bikini top and bottoms) at all times except when giving a performance.
7. Performances of adult nature must be restricted to the designated areas.
8. All staff and performers are forbidden to give personal details including real name and address or other contact details of any other performer or staff member to a customer. Performers are strongly advised not to pass their own personal details to customers.
9. The duty manager and security staff will ensure that all customers and performers comply with the house rules.

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Legislation and Policy Considerations

1. The following provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) apply to this application:
 - Paragraph 10 (Grant, renewal and transfer of licences for sex establishments) relates to the process which the applicant must have followed for the application to be considered valid.
 - Paragraph 12 (Refusal of licences) relates to the grounds under which an application shall not be granted and also describes the powers by which the licensing authority has a discretion to refuse the licence.
 - Paragraph 13 (Power to prescribe standard conditions).
2. The following provisions of the Home Office Guidance apply to this application:
 - Paragraphs 3.23 – 3.24 (Objections) explain who can object and how this is done and that the applicant must be made aware of the general grounds for the objection before the application is determined.
 - Paragraphs 3.25 – 3.26 (Hearings) explain that the applicant must be given the opportunity to appear and be heard in front of the sub-committee considering the application. Schedule 3 does not make any explicit provision for objectors to be heard, this is left to the discretion of the appropriate authority.
 - Paragraphs 3.32 – 3.31 (Grounds for refusal).
 - Paragraphs 3.32 – 3.38 (Relevant locality) define the meaning of “relevant locality” and the powers of the appropriate authority to decide the maximum number of premises allowed in a particular locality.
 - Paragraphs 3.39 – 3.42 (Licence conditions) explain that once the decision is made to grant, the appropriate authority can attach conditions specific to the individual premises and/or standard conditions for the particular type of establishment. These conditions should not duplicate conditions placed on a premises licence issued under the Licensing Act 2003 and should be appropriate to the activities authorised by the licence.
 - Paragraphs 4.19 – 4.21 (European Convention on Human Rights) explain whilst applications from existing operators can be refused on one or more grounds set out in paragraph 12 of schedule 3 of the 1982 Act, account must be taken of rights existing operators

may have under Article 1 of Protocol 1 to the European Convention which protects the peaceful enjoyment of their possessions (including licences) and article 10 (freedom of expression).

4. City of York Council's Policy for the Determination of Applications for Sexual Entertainment Venues and the Standard Conditions Applicable to Licences issued to Sex Establishments applies to this application.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

NOTE FOR MEMBERS

Extracts from Home Office Guidance for England and Wales relating to Sexual Entertainment Venues.

3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.

3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a 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 a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.28 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- 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 made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard -
 - i. to the character of the relevant locality;
 - 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.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

3.31 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it if one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by

concluding two sex establishments 200 miles away from one another were in the same locality. Case law indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.

3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licence or clubs premises certificates and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises

certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

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