



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

To: Councillors Douglas (Chair), Boyce (Vice-Chair),
Aspden, Crisp, D'Agorne, Funnell, Gillies, Gunnell,
Hayes, Hunter, Mason, Mercer, D Myers, Orrell and
Richardson

Date: Monday, 6 February 2017

Time: 4.00 pm

Venue: The King John Room (GO59) - West Offices

AGENDA

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. Minutes (Pages 1 - 8)

To approve and sign the minutes of the meeting held on 7 November 2016.

3. 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 **5:00pm on Friday 3 February 2017**.

Filming or Recording Meetings

Please note this meeting may be filmed and webcast or audio recorded and that includes any registered public speakers, who have given their permission.

The broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if recorded, this will be uploaded onto the Council's website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

- 4. Renewal of Sex Establishment Licence** (Pages 9 - 42)
This report seeks Members' determination of an application to renew 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.
- 5. Unmet Demand Policy** (Pages 43 - 46)
This report seeks Members' approval to undertake an unmet demand survey in relation to hackney carriage provision within the authority area.
- 6. Licensing of Sex Establishments - Licensing Policy**
(Pages 47 - 90)
This report seeks Members' support for the approval of the Council's Licensing Policy, which relates to the licensing of sex establishments. It advises of the consultation undertaken and the amendments made to the draft policy following the consultation.
- 7. Urgent Business**
Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Laura Clark

Contact Details:

- Telephone – (01904) 554538
- E-mail – Laura.Clark@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 and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

This page is intentionally left blank

City of York Council

Committee Minutes

Meeting	Gambling, Licensing & Regulatory Committee
Date	7 November 2016
Present	Councillors Douglas (Chair), Boyce (Vice-Chair), Aspden, Crisp, Funnell, Gillies, Hayes, Mercer, D Myers, Orrell and Richardson
In attendance	Councillor Warters
Apologies	Councillors D'Agorne, Gunnell, Hunter and Mason

Part A - Matters Dealt with Under Delegated Powers

13. Declarations of Interest

Members were 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 the agenda. Councillor Funnell declared a personal interest in respect of agenda item 4 – City of York Council Community Governance Review, as a City of York Council representative on Derwenthorpe Partnership Forum.

14. Minutes

Resolved: That the minutes of the meeting held on 13 September 2016 be approved as a correct record and then signed by the Chair.

15. Public Participation

It was reported that there had been three registrations to speak at the meeting under the Council's Public Participation Scheme and that one Member of Council had also registered to speak.

Mr Saf Din, representative of the taxi trade, spoke in respect of taxi licensing issues. He asked the following questions:

- What part of the Taxi Licensing Policy was changed to allow Uber to operate?

- Why had the policy been changed?
- What consultation had taken place on the change?

Mr Din also requested feedback on the findings following the taxi licensing enforcement that had taken place.

Mr Din raised concerns regarding the public liability insurance implications in respect of cross boundary work and the difficulties in ascertaining whether drivers had the necessary insurance cover in place. Members' attention was also drawn to the Emissions Policy and the impact of increasing the number of vehicles coming into the city.

Mr Din requested that consideration be given to marshals being in place on Friday and Saturday nights at the three busiest ranks in the city – St Saviourgate, Duncombe Place and Rougier Street.

Mr Gary Graham, York Hackney Carriage Driver, sought clarification as to which part of the Taxi Licensing Policy had been changed to allow Uber into York. He expressed his concerns that the consultation that had taken place had not been transparent, as taxi drivers had not been aware of the implications of the proposed change. Mr Graham requested that further consultation be carried out on the changes that had been made to the policy. He also raised concern regarding the insurance of out of town licensed vehicles and stated that he did not believe that their insurance covered hire and reward in York.

The Chair informed Mr Din and Mr Graham that they would receive a written response to the questions they had raised. Copies of the response would also be circulated to Members of the committee.

Councillor Warters spoke in respect of agenda item 4 – City of York Council Community Governance Review. He explained the reasons why Osbaldwick Parish Council had requested that the development of Derwenthorpe be removed from the parish area, including the historical background. He also drew attention to the precept implications for Murton Parish Council. Councillor Warters stated that the Derwenthorpe development had been established as a model village and that parish councils should have no role to play in such estates and their residents should not be paying precepts. Councillor Warters stated that Osbaldwick Parish Council had no desire to remove

Meadlands from the parish area and that the Meadlands Residents Association had not been consulted on such a proposal. Councillor Warters requested that Members deferred consultation on the options detailed in 3.12 of the report but carried out full consultation on the options detailed in 4.1 and 4.2 of the report. Consultation should also take place with Murton Parish Council.

Ms Virginia Shaw spoke in respect of agenda item 4 – City of York Council Community Governance Review. She stated that residents in Derwenthorpe paid a monthly management fee which was considerably more than the £8.60 per annum parish precept. She stated that it was not the case that the parish council did not provide services or infrastructure for residents of Derwenthorpe and gave the example of the play equipment. Ms Shaw stated that it had been envisaged that the Derwenthorpe estate would be integrated and not be isolated from the other community. She stated that she supported the option to consult on no change and on consulting to ward the parish.

The Chair stated that the comments of Councillor Warters and Ms Shaw would be considered under the relevant agenda item.

16. City of York Council Community Governance Review

[See also Part B minute]

Members considered a report that presented proposals in respect of the governance arrangements for three parish councils and which sought approval to further direct consultation:

Request from the Osbaldwick Parish Council to remove the development of Derwenthorpe from the Parish area

Members considered a request from Osbaldwick Parish Council to have the development known as the Derwenthorpe Estate removed from the parish. The Parish Council believed that this would represent a return to a more traditional boundary of the parish. The Parish Council had also stated that the Derwenthorpe Estate was a private estate for which the Parish Council provided no services or infrastructure. Members noted that this proposal was not universally popular and that it was the view of officers that any proposal to remove Derwenthorpe

should be accompanied by a proposal to remove Meadlands for the reasons detailed in the report, including the fact that it was geographically isolated from Osbaldwick.

Officers stated that they had visited the parish and, as there was no clear evidence why the Derwenthorpe estate should be removed from the parish area, it was important to ascertain the views of residents.

Members gave consideration to a recommendation from officers that residents of the parish be consulted on the following three options:

- Consult on no change.
- Consult to ward the parish. This would involve creating three wards. A northern ward could include Meadlands and Derwenthorpe, a central ward would cover the older settlement and a southern ward close to Hull Road. The precise boundaries would be drawn with a view to ensuring, as far as possible, that each ward has a similar number of parish councillors.
- Consult to remove Derwenthorpe and Meadlands Estates from the parish, with a sub option of creating a new Parish Council for those areas.

Members agreed that the consultation should include the wording “and/or” in respect of options concerning Meadlands.

Members noted that if agreement was given for consultation to take place on the proposals, each household in the parish would receive a leaflet setting out the options and reasons for the survey and information would be available on the website. Public consultation meetings would be held as well as meetings with residents associations and other interested parties. The findings would be reported back to the committee. Members sought clarification as to whether there would be any benefit in deferring the consultation. Officers explained that the consultation period could be as long as Members thought appropriate.

Members agreed on the importance of ensuring that there was full consultation on the options and were keen to ensure that any changes were not divisive and supported community cohesion.

Request from Osbaldwick Parish to include streets around Broughton Way on the south west of the parish and streets around Tranby Avenue on the South East of the parish.

Members gave consideration to a further request from Osbaldwick Parish Council to include a number of streets that border the parish, where the Parish Council believed that residents identify as part of the Osbaldwick parish community. These were:

- On the South West boundary the streets of Broughton Way, Seaton Close, Elwick Grove, Whitton Place, Sadberge Close, Wolviston Avenue and Carlton Avenue as suggested as being incorporated to the parish, as marked as Area C on Annex B of the report.
- On the South East boundary the start of Tranby Avenue from properties 1 to 17 and 2 to 24, along with Cavendish Grove be incorporated to the parish, as marked as Area D on Annex B of the report.

Members noted the views of officers on the proposals, as detailed in paragraphs 4.2 to 4.6 of the report.

Members noted the officer recommendation that consultation take place with residents, ward councillors and Murton Parish on the incorporation of the properties indicated in Area A and Area B of Annex D to the report.

Outstanding requests

Members noted that officers were still working with relevant parties on requests to create a Parish Council in Guildhall, and for changes to Rawcliffe, Haxby and Wheldrake Parish Councils. An update on progress with these requests was included at Annex A of the report. A further update would be presented to the committee at a later date.

Resolved: That officers be asked to commence public consultation on the options for future arrangements for Osbaldwick Parish as set out in the report subject to the wording being amended to read “and/or” in respect of those options referring to Meadlands.

Reason: To allow better local representation for the electors of the parishes.

17. Street Trading Consent Sites

Members considered a report which sought their approval for the introduction of two new street trading consent sites, on St Helens Square and Station Road (adjacent to the cholera burial ground), and the trading activities which would be allowed there.

Members considered the following options:

Option 1: Approve the introduction of two new street trading sites on St Helens Square and Station Road and their trading activities, seeking the views of officers in Network Management and Make it York in relation to exact trading location.

Option 2: Approve alternative locations for new street trading sites and/or alternative trading activities, seeking the views of officers in Network Management and Make it York in relation to exact trading location.

Option 3: Refuse to allow any additional street trading sites.

Officers gave details of the proposed activities and the feedback received in response to the informal consultation that had taken place. They drew Members' attention to the activities that were not classed as street trading and were therefore exempt from the requirement to obtain a street trading consent, as detailed in paragraph 6 of the report. Officers explained that Network Management had suggested that Davygate be considered as an alternative to St Helens Square but, this was not thought an appropriate site because the narrowness of the pavement area would increase congestion.

Members noted that St Helens Square had not previously been considered as a suitable location for street traders, which was thought to be because of its proximity to the Mansion House and Guildhall. Members expressed concerns regarding the suitability of St Helens Square for street trading, including the special characteristics of the square, the considerable footfall in the area and the impact on local businesses.

Resolved: (i) That Station Road be approved as a new street trading site, seeking the views of officers in Network Management and Make it York in relation to exact trading location.

- (ii) That St Helens Square not be approved as a new street trading site.

- Reasons:
- (i) To support the introduction of new small businesses into the area and generate cost recover revenue for the authority.
 - (ii) Members do not consider the site to be appropriate for street trading in view of its special characteristics and the impact that trading could have in terms of footfall congestion.

Part B - Matters Referred to Council

18. City of York Council Community Governance Review

[See also Part A minute]

Members considered a report that presented proposals in respect of the governance arrangements for parish councils and which sought approval to further direct consultation:

Request from Heslington Parish Council to have the two parish wards removed

Members noted that the Local Government Boundary Commission (LGBCE) for England review of the city council's wards had resulted in the creation of the Fulford and Heslington Ward and the expansion of the Hull Road Ward to include the University of York. This had left the parish of Heslington split between those two council wards. In line with common practice for the LGBCE in this situation, two parish wards had been created, as shown on the map at Annex C of the report. The two parish wards were of uneven size and the feelings of the parish were that the two wards did not provide effective representation and governance.

Members noted that the step of de-warding the council would require the approval of the LGBCE, which had confirmed that it had no objection. Members also noted the issues that the city council was legally obliged to consider when deciding whether to recommend that a parish should, or should not be or continue

to be divided into wards. It was the view of officers that the current arrangement was impracticable and it would be desirable to dispense with separate representation for different areas of the parish.

Members also noted the views of officers, as detailed in the report, and the requirements that had to be taken into account whenever a review of an existing parish was undertaken by the city council (as detailed in paragraphs 5.10 to 5.12 of the report). It was noted that the recommendation of officers was that the status quo be preserved in the absence of any public demand or obvious reason for change.

Request from Kexby Parish Council for change of name

Members noted that the Parish of Kexby had submitted a request for the name of the parish to be changed to Kexby and Scoreby Parish Council. It was intended that the name change would reflect a more historic link of the parish with the area that it covered.

- Recommended:
- (i) That Heslington Parish Council should no longer be divided into wards and there be a single parish area represented by nine councillors.
 - (ii) That Council formally confirms that Heslington Parish should not be abolished, that its area and name should be unchanged and that it should continue to have a Parish Council.
 - (iii) That the name of Kexby Parish Council be changed to Kexby and Scoreby Parish Council.

Reason: To allow better local representation for the electors of the parishes.

Councillor Douglas, Chair
[The meeting started at 4.00 pm and finished at 5.00 pm].



Gambling, Licensing & Regulatory Committee

6 February 2017

Report of the Assistant Director – Planning and Public Protection

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 to renew 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 renewal application is attached at Annex 1.
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 (SEV). A copy of the licence to be renewed is attached at Annex 2.

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'; for which a sex establishment licence is required under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This allows Local Authorities who have 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 in the legislation 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 3.

Consultation

8. 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 for renewal to be considered valid.
9. There were no objections received to the application.
10. A map showing the location of Upstairs, 53-55 Micklegate is attached at Annex 4.

Relevant Legislation – Grounds for Refusal

11. When considering the renewal application, the Authority does not have an unfettered discretion as to whether to refuse an application or grant a renewal. The grounds on which an application could be refused are set out in paragraph 12 to Schedule 3 of the 1982 Act, which is attached at Annex 5.

Options

12. 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:
13. Option 1: Grant a renewal of the licence as requested.
14. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.

15. Option 3: Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Analysis

16. The following could be the result of any decision made by this Committee:
17. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application. Objectors could judicially review the decision.
18. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
19. Option 3: With the exception of a decision to refuse an application on a ground specified in paragraph 12(3) (c) or (d) of Schedule 3 to the 1982 Act, the licence applicant may appeal against the decision made to the Magistrates' Court.

Council Plan

20. The approved City of York Council Policy will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

21. The implications arising directly from this report are:
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A
 - **Equalities** – N/A
 - **Legal** – The Council has the ability to control the licensing of sexual entertainment venues having adopted Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

Paragraph 8 of Schedule 3 to the 1982 Act provides that where it determines to grant an SEV licence, the Council is empowered to impose such conditions or restrictions as it deems appropriate.

Paragraph 12 of Schedule 3 to the 1982 Act sets out a number of mandatory grounds for refusal of an SEV licence and also discretionary grounds for refusal of an SEV licence.

In considering this application the Committee should have regard to:

- Schedule 3 to the 1982 Act, as amended by Policing and Crime Act 2009 (Annex 5).
- The Council's Policy for the Determination of Applications for Sexual Entertainment Venues (Annex 3).
- The Home Office – Sexual Entertainment Licence – Guidance for England and Wales which states that “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” [of Schedule 3 to the 1982 Act].

In addition when making their decision Members must give consideration to the rights the applicant has under the European Convention on Human Rights. Article 1 (entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression) are particular rights that may be relevant. Members should consider whether interference with these rights is necessary and proportionate for the prevention of crime or disorder, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, whether interference can be justified in the general interest.

Members of the Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the licence and shall only determine the application on its own merit.

- **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

22. All Members are aware that any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of reputation and potential financial penalty.
23. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with the proper grounds for considering the application as set out within this report, there are no known risks involved with this recommendation.

Recommendations

24. Members are asked to determine the application for the grant of the licence in accordance with the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by the Policing and Crime Act 2009.

Reason: To consider renewal of the sexual entertainment licence as required by the legislation.

Contact Details

Author:	Chief Officer Responsible for the report:		
Lesley Cooke Licensing Manager (01904) 551515	Michael Slater Assistant Director Planning & Public Protection		
	Report Approved	√	Date 24/01/17

Wards Affected: Micklegate

Annexes

- Annex 1** - Copy of application for renewal
- Annex 2** - Copy of existing licence to be renewed
- Annex 3** - Copy of CYC Policy on Sexual Entertainment Venues
- Annex 4** - Map showing location of premises
- Annex 5** - Grounds to Refuse
- Annex 6** - Legislation Extracts – Renewal Applications

This page is intentionally left blank



CITY OF YORK COUNCIL
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10 3DS

RECEIVED
11 DEC 2008

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED
SCHEDULE 3 – CONTROL OF SEX ESTABLISHMENTS**

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

TYPE OF VENUE

- Sexual Entertainment Venue Sex Shop Sex Cinema

TYPE OF APPLICATION

- Grant Renewal Transfer

APPLICANT DETAILS

1. Is the applicant:

- An individual (please answer questions 2, 5 to 9)
 A company or other corporate body (please answer questions 3, 5 to 9)
 A partnership or other unincorporated body (please answer questions 4, 5 to 9)

2. Full name of applicant (individual):

Former or previous names:

Home address:

Post town:

Post code:

Telephone numbers:

Date of birth:

Email address:

3. Name of applicant (company name): **Upstairs VIP Limited**

Address of registered or principal office: **53 Micklegate
York
YO1 6LJ**

Registration number: **07831359**

Email address: **MansionYork@Mail.com**

4. Name and address of applicant:

Names and addresses of applicant's partners (please use additional sheet):

5. Are there any other persons responsible for the management of the premises/business other than the partners? Please state their names and addresses:

- 6. a. Has the applicant ever been known by any other name? YES / NO
- b. Has the applicant ever been convicted of a criminal offence? YES / NO
- c. Has the applicant ever been refused a sex establishment licence? YES / NO
- d. Has the applicant ever had a sex establishment licence revoked? YES / NO
- e. Has the applicant ever been served with a winding up petition? YES / NO

If the answer to any of these questions is yes, please provide details:

7. Applicants' trading address or head office (other than the premises)

**Upstairs VIP
53-55 Micklegate
York
YO1 6LJ**

8. Will the business for which this licence is sought be carried on for the benefit of a person other than the applicant? YES / NO

If the answer is yes, state the name, address, place of registration, registered number and the identity of all directors, company secretary and those with a greater than 10% shareholding (use separate sheet if necessary).

9. Does the applicant operate any other sex establishments, licensed or otherwise? Please state name, address, and type of sex establishment of each.

PREMISES DETAILS

10. Please state the name the business will be known as:

**Upstairs VIP
York's Finest Gentleman's Club**

11. Is the premises a Building Vehicle Vessel Stall

12. Where is it proposed to use the vehicle, vessel or stall?

13. Does the company propose to only operate on the internet?
(f yes answer Q14 to 19 only)

14. Premises address

**Upstairs VIP
53-55 Micklegate
York
YO1 6LJ**

Post town

Post code

Telephone number at premises

15. Which part of the premises is to be used as a sex establishment?

Existing Space – Renewal Only

16. Is the applicant owner lessee sub-lessee other

17. If the applicant rents the property state:

a. Name and address of landlord:

b. Name and address of the superior landlord:

c. Total annual rental:

d. Length of unexpired term:

e. Notice required to terminate tenancy:

18. Please provide details of the building management company (if appropriate):

19. State the current use of the premises: **Nightclub and Sexual Entertainment Venue**

20. Has planning permission, or a certificate of lawful use, been obtained for the use of the proposed premises? YES / NO

21. Can members of the public access the premises:
 a. Directly from the street? YES / NO
 b. From other premises? YES / NO
 c. Not at all? (internet sales only) YES / NO

22. Are the premises currently being used as a sex establishment?
 Please provide details of the business currently operating the business:

**Upstairs VIP
 53-55 Micklegate
 York
 YO1 6LJ**

OPERATING SCHEDULE

23. Opening hours: (If internet sales only please tick here and continue to Q 26)

Monday	Tuesday	Wednesday	Thursday	Friday
21:00 – 03:00	21:00 – 03:00	21:00 – 03:00	21:00 – 03:00	21:00 – 03:00

Saturday	Sunday
21:00 – 03:00	21:00 – 03:00

Any non-standard timings:

18:00 to 04:30 on days of York Races

24. Has the applicant entered into any written or oral agreement in connection with the business, for example a management agreement, partnership agreement or profit share arrangement? Please provide details.

a. Please provide details of any lender, mortgage or others providing finance:

b. Please provide details of any merchandising agreements:

PREMISES MANAGEMENT

25. Please state the name of the person who will be in day to day control of the premises (the manager).

a. Will the manager be based at the premises YES / NO
 b. Will the management of the premises be the manager's sole occupation YES / NO

26. Who will be in control of the premises in the manager's absence (relief manager)?

a. Will the relief manager be based at the premises in the absence of the manager? YES / NO

If you have ticked no to any of the above please provide details.

EXTERNAL APPEARANCE AND ADVERTISING – DO NOT COMPLETE FOR RENEWAL APPLICATION

27. Please describe the proposed exterior signage and advertising. Please include nature, content and size of each sign and any images to be used:

Please note that a drawing of the front elevation is required to be submitted with this application.

28. Please describe how the interior of the premises is obscured to passersby:

29. Please describe any proposed window displays:

30. Please describe how the business is to be advertised, ie business cards, billboard advertising, personal solicitation, advertising on motor vehicles, radio or television advertising:

APPLICATIONS FOR SEXUAL ENTERTAINMENT VENUES ONLY

31. Is the proposal for full nudity? YES / NO

32. Describe the nature of the entertainment eg lap-dancing, pole dancing, stage strip tease:

33. State measures to ensure employees age and right to work in the UK:

34. Describe training and welfare policies:

Please enclose a copy of the welfare policy for performers (or equivalent document).

35. Please set out any further information you wish the authority to take into account.

36. Is there any information on this form you do not wish to be seen by members of the public?
If so state which information and the reasons why you do not wish it to be seen.

CHECKLIST & ENCLOSURES

Enclosures

I have made or enclosed payment of the fee
I have enclosed three sets of plans of the premises
I have enclosed a drawing of the street elevation of the premises
In the case of an application to transfer the licence, include the completed Consent to Transfer form

DECLARATION

I declare that I have served notice of this application on North Yorkshire Police.

I declare that a public notice advertising this application has today been displayed upon the proposed premises where it may be conveniently read by the public and will remain thereon for a period of 21 days. A copy of the notice and the standard declaration is enclosed.

I declare that within seven days of the date of this application a public notice advertising this application will be publicised in the legal notices column of the local press.

A copy of the relevant press edition will be forwarded to the City of York Council Licensing Section.

I understand that if I do not comply with the above requirements my application will be rejected.

Any person who, in connection with an application for a grant, renewal or transfer of a sex establishment licence, makes a false statement which he knows to be false in any material respect of which he does not believe to be true is guilty of an offence and liable on summary conviction to an unlimited fine.



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 conditions set out in the schedule below.

A fee of £777.00 (744157) has been paid for this licence.

This licence shall continue in force from the date hereof until 30 November 2016 unless previously revoked.

Granted on 8 February 2016

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 by 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.
6. 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.
7. 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 8 below.
8. 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.
9. 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.

10. 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.
11. The Licensee shall maintain good order in the premises.
12. A notice stating that persons under the age of 18 may not enter the premises shall be prominently displayed at the entrance.
13. 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.
14. No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.
15. 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.
16. 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.
17. 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.
18. No change between the uses of a sex shop, sex cinema or sexual entertainment venue shall be effected without the consent of the Council.
19. 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.
20. Without prejudice to the generality of condition 19 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.

21. 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.
22. 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 21 hereof.
23. 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.
24. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:
 - a) All doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit".
 - b) 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".
 - c) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.
25. 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).
26. 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.
27. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.
28. 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.
29. All performers shall be over 18 years of age.
30. 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.
31. 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.
32. Adult entertainment shall not take place in a location that could be viewed from outside the premises.
33. 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.
34. 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, including each dance booth. 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. The new CCTV system must be in place by 1st June 2015.
35. 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.
36. There shall be at least one female member of staff authorised to be responsible for the safety and welfare of the performers.
37. At least two SIA (Security Industry Authority) registered door supervisors shall be present when the sexual entertainment premises are open to the public with one SIA door supervisor being positioned on the first floor

landing throughout the performance (therefore being present in the area in which the performance takes place) and one at the main entrance to the premises on the ground floor.

38. Dance entertainment shall be given only by performers/entertainers who are engaged exclusively for that purpose. Audience participation shall not be permitted.
39. 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.
40. 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.
41. On leaving the premise performers will be escorted to their transport by a door supervisor.
42. Adult entertainment shall not take place before 9.00 pm, except for York Race Days as specified elsewhere in the licence.
43. 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 an agency 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.



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:

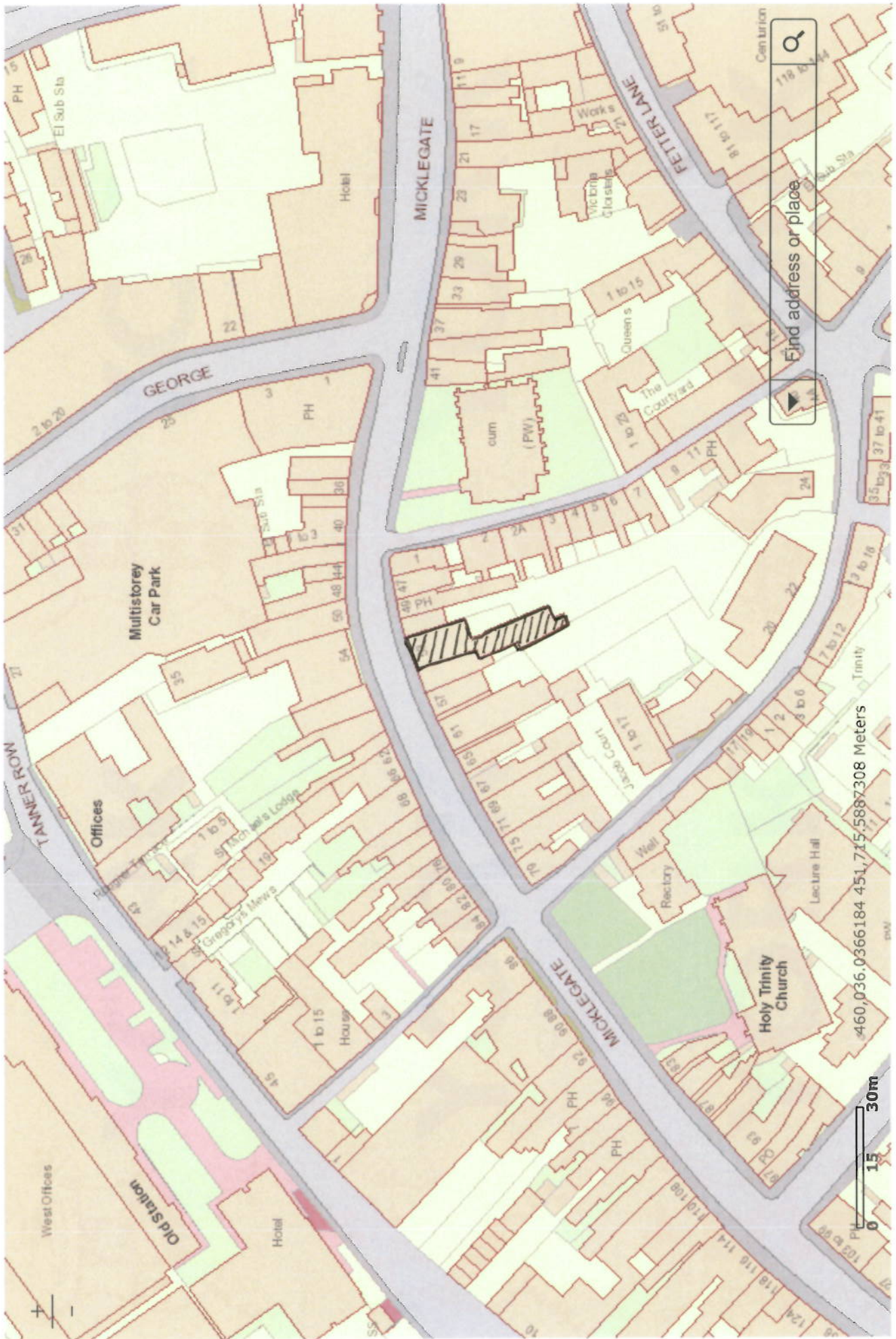
- The number can be nil, but this decision needs to be rationally underpinned. The Council has not determined any appropriate number of sexual entertainment venues.

(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”.

This page is intentionally left blank



This page is intentionally left blank

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 if writing.

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 3.27 – 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.



Gambling, Licensing & Regulatory Committee

6 February 2017

Report from the Assistant Director – Planning and Public Protection

Unmet Demand Survey

Summary

1. This report seeks Members' approval to undertake an unmet demand survey in relation to hackney carriage provision within the authority area.

Background

2. Provisions within Section 16 of the Transport Act 1985 allow local authorities to set quantity restrictions on the number of licences issued in relation to hackney carriage vehicles (taxis), but only if it is satisfied that there is no significant unmet demand for taxi services in its area.
3. City of York Council (the Council) currently restricts (regulates) the number of taxi licences issued. At this time there are 183 licensed vehicles, of which 45 are wheelchair accessible (by condition of licence).
4. Due to regulating the number of licences the Council operates a waiting list for those who wish to obtain a new taxi licence, should any be issued in the future. The nature of the market means a vehicle licence has never been surrendered.

Unmet Demand

5. A licensing authority may limit the number of taxis in its area provided that it is satisfied that there is no significant demand for the services of taxis which is unmet. As the Council regulates the number of licences it is considered best practice, in guidance issued by the DfT, that an unmet demand survey is carried out once every three years. The purpose of the survey is to determine whether there is any evidence of significant unmet demand for taxi services in the Council's area and if

any unmet demand is found, to recommend how many licences would be required to meet this.

6. The last survey was carried out in 2014. At that time the survey identified that there was no evidence of significant unmet demand for taxis in York. The full results of the survey were brought to this committee on 20 October 2014. At that time Members resolved that no new taxi licences would be issued.

Consultation

7. This report seeks authority to undertake an unmet demand survey in relation to the provision of taxis, in line with best practice guidance from the DfT.

Options

8. Option 1 – Authorise officers to engage a transport consultancy to undertake an unmet demand survey, and once completed bring the results of the survey to this committee.
9. Option 2 – Take no action at this time (this could leave the Council at risk of legal challenge)

Analysis

10. The results of an unmet demand survey will assist the authority in determining whether or not it can lawfully retain a limit on the number of taxi licences available, and if retained, at what level bearing in mind the need to demonstrate that there is no significant unmet demand. If a significant unmet demand is identified, the recommendations made with regards to how to address this will need to be considered.
11. Due to the complex nature of assessing unmet demand a specialist company with expertise in this area would need to be procured to conduct an independent survey. The results of the survey will be brought before this Committee.
12. If the results of the survey identifies that there is no evidence of significant unmet demand, this will strengthen the Council's position in the event of a legal challenge against having a policy in place that no new taxi licences will be issued in principle or against claims from individuals who may be refused licences.

Council Priorities

13. The provision of hackney carriage and private hire licensing supports the council plan of a prosperous city for all, where local businesses can thrive.

Implications

14. The direct implications arising from this report are:
 - (a) **Financial** – The cost of consultation will be met from existing budgets.
 - (b) **Human Resources (HR)** - There are no HR implications.
 - (c) **Equalities** – There are no equalities implications.
 - (d) **Legal** – Section 16 of the Transport Act 1985 gives local authorities the power to limit the number of taxi licences provided that the local authority is satisfied that there is no significant demand for taxis which is unmet in its area. DfT guidance requires that local authorities which retain quantity controls carry out unmet demand surveys at least every three years to establish if there is any level of unmet demand. Should the Council carry out an unmet demand survey and find no significant unmet demand then it could lawfully retain quantity controls. Council could be at risk of legal challenge if it does not follow the best practice guidance issued by the DfT and undertake an unmet demand survey at least once every three years, so long as it wishes to restrict the number of hackney carriage vehicle licences issued.
 - (e) **Crime and Disorder** – There are no crime and disorder implications.
 - (f) **Information Technology (IT)** - There are no IT implications.
 - (g) **Property** - There are no property implications.
 - (h) **Other** - There are no other implications.

Risk Management

15. By undertaking an unmet demand survey, in line with best practice guidance, will mitigate the risk of legal challenge.

Recommendations

16. That Members approve Option 1 of this report.

Reason: This will allow the Council to undertake an unmet demand survey, in line with best practice guidance issued by the Department for Transport (DfT), in relation to the provision of the hackney carriage service.

Contact Details

Author:	Chief Officer Responsible for the report:		
Lesley Cooke Licensing Manager (01904) 551515	Mike Slater Assistant Director – Planning and Public Protection		
	Report Approved	√	Date 24/01/17
Specialist Implications Officer(s)			
Wards Affected:		All	√
For further information please contact the author of the report			

Background papers

Gambling, Licensing and Regulatory Committee Agenda and Minutes 20 October 2014

<http://democracy.york.gov.uk/ieListDocuments.aspx?CIId=606&MIId=8268&Ver=4>



Gambling, Licensing & Regulatory Committee

6 February 2017

Report from the Assistant Director - Planning and Public Protection

Licensing of Sex Establishments – Licensing Policy

Summary

1. This report seeks Members' support for the approval of the Council's Licensing Policy which relates to the licensing of sex establishments. It advises of the consultation undertaken and the amendments made to the draft policy following the consultation.
2. The report seeks a recommendation to the Executive that the policy be approved.

Background

3. In 2010 the Government introduced a new category of sex establishment called a 'sexual entertainment venue'. This reclassified lap dancing clubs and other similar venues as sexual entertainment venues (SEVs), and gave local authorities the powers to regulate such venues.
4. At a meeting of the Licensing and Regulatory committee on 2 July 2010 members resolved to adopt the provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 (1982 Act), effective from 1 December 2010. Full Council approved this resolution on 7 October 2010.
5. Unlike other licensing regimes, there is no statutory requirement for local authorities to set policies in relation to the licensing of sex establishments. It is, however, considered best practice to do so as this allows greater transparency, accountability, certainty, consistency and the promotion of good standards in licensing.
6. In 2010 a Licensing Policy and standard conditions were approved by members, as part of the resolution to adopt the provisions of the 1982 Act.

7. In 2015 members of this committee asked Officers to review this policy and the standard conditions.
8. Following this request, Officers sought best practice advice from other licensing authorities, who had also reviewed their policies. Officers have developed an approach to this policy review based on good examples of best practice. A working group was formed to review the policy. This group was made up of members of this Committee, council Officers and the police.
9. The group undertook a public consultation between 24 June and 5 August 2015 with regard to the licensing of sexual entertainment venues, especially in relation to the appropriate number of lap dancing clubs and the most appropriate locations for them. The results of the public consultation assisted in the formulation of the proposed Licensing Policy.
10. A report was brought to this committee on the 13 September 2016, detailing the results of the public consultation, and asking for approval to formally consult on a proposed Licensing Policy. This proposed policy took into consideration the results of the public consultation. Members authorised Officers to go out for formal consultation on the proposed policy with one amendment - that the appropriate number of sexual entertainment venues should be set at two.
11. The proposed Licensing Policy can be found at Annex 1.

Consultation

12. An 8 week consultation was carried out on the Licensing Policy, from 19 September to 14 November 2016.
13. As part of the consultation process the Council consulted over 40 organisations/individuals (see Annex 1 for list of consultees) and the three licensed sex establishment premises within the authority area.
14. Two responses were received to the consultation from Make it York and North Yorkshire Police.

Options

15. Option 1 – Approve the proposed policy.

16. Option 2 – Amend the proposed policy.

Analysis

17. The Council currently licences three sex establishments, one sex shop and two SEVs. The SEVs are located in Micklegate and Toft Green.

- Sex Shop – means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in the connection with, or for the purpose of stimulating or encouraging sexual activity.
- Sexual Entertainment Venue – means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (i.e. a person who is responsible for organisation of management of the entertainment or the premises).
- Relevant entertainment – means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

18. During the consultation on the proposed Licensing Policy members of this committee undertook unannounced site visits to the two licensed SEVs, in the evening, to see how they operated and to speak directly to managers and dancers about the day to day operation of lap dancing clubs.

19. Two responses were received in response to the consultation:

- a) Make It York – we are keen to discourage as much as possible the development of such establishments. York is facing an ongoing battle of anti-social behaviour and ‘sex establishments’ are not conducive to the ‘family friendly’ atmosphere that Make It York and many other organisations are trying to create and promote. We hope that any final policy is as tight as it possible can be in terms of limiting any expansion in this area.

b) North Yorkshire Police – fully support the amendments and changes that you have looked at for the new and improved Licensing Policy for the City of York. My only observation would be that any variations / transfers of sexual entertainment venue licence should be consulted by the Sub Committee at the least, rather than a delegated officer. There may well be concerns that Committee members (via residents) have and I believe it would be more appropriate to consult with at least the Sub Committee.

20. Each application must be considered on its own merits. There is however, provision within the 1982 Act to impose a numerical control on the number of sex establishments in a particular locality. Within the proposed policy premises/places with particular sensitive uses have been identified, along with an appropriate locality in relation to SEVs, and an appropriate number of SEVs within this locality.
21. Appendix B ‘Schedule of Delegation’ within the proposed Licensing Policy has been amended to reflect the comments from North Yorkshire Police.

Council Priorities

23. The implementation of a Licensing Policy will support the Council’s plan of a prosperous city for all, where local businesses can thrive and a council that listens to residents.

Implications

24. The direct implications arising from this report are:
- (a) **Financial** – There are no financial implications for the council.
 - (b) **Human Resources (HR)** - There are no HR implications.
 - (c) **Equalities** – An equalities impact assessment will be undertaken in relation to the new Licensing Policy.
 - (d) **Legal** – There is no statutory requirement to adopt a Licensing Policy however, it is best practice to do so. Whilst an adopted policy will be a consideration in determining applications it should be noted that irrespective of the details of a sex establishment licensing policy, the Council must accept and determine properly made applications and must consider each one on its own merits so that individual circumstances, where appropriate, are taken into consideration.

- (e) **Crime and Disorder** – The Licensing Policy introduces requirements to aid the prevention of crime and disorder.
- (f) **Information Technology (IT)** - There are no IT implications.
- (g) **Property** - There are no property implications.
- (h) **Other** - There are no other implications.

Risk Management

25. There are no known risks associated with this report.

Recommendations

26. That Members **approve Option 1** of this report and recommend to the Executive that the Licensing Policy be adopted.

Reason: This will allow the Council to introduce a more robust Licensing Policy relating to the licensing of sex establishments.

Contact Details

Author:		Chief Officer Responsible for the report:	
Lesley Cooke Licensing Manager (01904) 551515		Mike Slater Assistant Director – Planning and Public Protection	
Report Approved	√	Date	23/01/17
Specialist Implications Officer(s) Sandra Branigan Senior Solicitor (01904) 551040			
Wards Affected:		All	√
For further information please contact the author of the report			

Background Papers

Local Government (Miscellaneous Provisions) Act 1982 as amended.

Committee Report and Minutes 13 September 2016

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=606&MId=9740&Ve r=4>

Annex 1 – Licensing Policy (incorporating standard conditions)

Annex 2 – List of Consultees



Licensing of Sex Establishments

Licensing Policy

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

Further copies of this policy can be obtained from:

e-mail: licensing.unit@york.gov.uk

tel: 01904 552512

web: www.york.gov.uk/licensing

Licensing Section
City of York Council
Eco Depot
Hazel Court
York
YO10 3DS

Content

	Page
1. Introduction	3
2. Purpose and Scope	4
Public consultation	4-5
3. Profile of York	6
4. General Principles	
Mandatory grounds for the refusal of an application	7
Discretionary grounds for the refusal of an application	7
Suitability of applicant	7- 8
Appropriate numbers and localities	8-10
Planning	10
Advertising	10
Staff training	10-11
Fining	11
Exemptions	11
5. Application Procedure	
Application procedure	12
Fees	13
Notices	13
Objections	13
Hearings – decision making process	13-14
Conditions	14
Right of appeal	14
Term of licence	14
Renewal / transfer	14
Variation	14
Revocation	15
Waiver	15
6. Enforcement	16
Appendices	
Appendix A - Interpretations	17
Appendix B - Schedule of Delegation	18
Appendix C - Standard Conditions	
Sexual Entertainment Venues	19-25
Sex Shops	26-29
Sex Cinemas	30-33

1. Introduction

- 1.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009, provides for local authorities to adopt a policy and standard conditions relating to the regulation of:
 - **sexual entertainment venues**
 - **sex shops**
 - **sex cinemas**
- 1.2 City of York Council (the council) adopted the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 on 7 October 2010, with effect from 1 December 2010.
- 1.3 In October 2010 the council adopted a policy and standard conditions to be applied when determining sex establishment licences within the authority area.
- 1.4 This policy was reviewed and a revised policy was adopted on XX XXXXXX 2017 with effect from XX XXXXXXXX 2017.
- 1.5 This policy sets out the councils approach to the regulation of the premises detailed in paragraph 1.1 above under the provisions of the 1982 Act.
- 1.6 This policy should be read with reference to the statutory Statement of Licensing Policy published under the Licensing Act 2003.
- 1.7 This policy will be reviewed regularly.
- 1.8 Interpretations can be found at Appendix A.

2. Purpose and Scope

- 2.1 This policy is concerned with the regulation of sex establishments as defined by the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 (the Act), namely
- sexual entertainment venues;
 - sex shops; and
 - sex cinemas
- 2.2 The full legal definition of a sexual entertainment venue, sex cinema and sex shop can be found at sections 2, 2A, 3 and 4 of the Act.
- 2.5 The aim of this policy is to ensure that sex establishments operate within the authority area in a safe, fair and discreet manner. The policy addresses sensitive areas and premises by dealing with locality. Standard conditions address advertising, external appearance, crime and disorder safe guards and staff welfare.
- 2.6 The council has also had regard to guidance issued by the Home Office.
- 2.7 The council will impose conditions where necessary to promote responsible licensed activity and will use effective enforcement to address premises where there are problems, in partnership with key agencies such as:
- North Yorkshire Police
 - North Yorkshire Fire & Rescue Service
 - Safer York Partnership
- 2.8 The council will keep the policy under constant review and make such revisions it considers appropriate.

Public Consultation

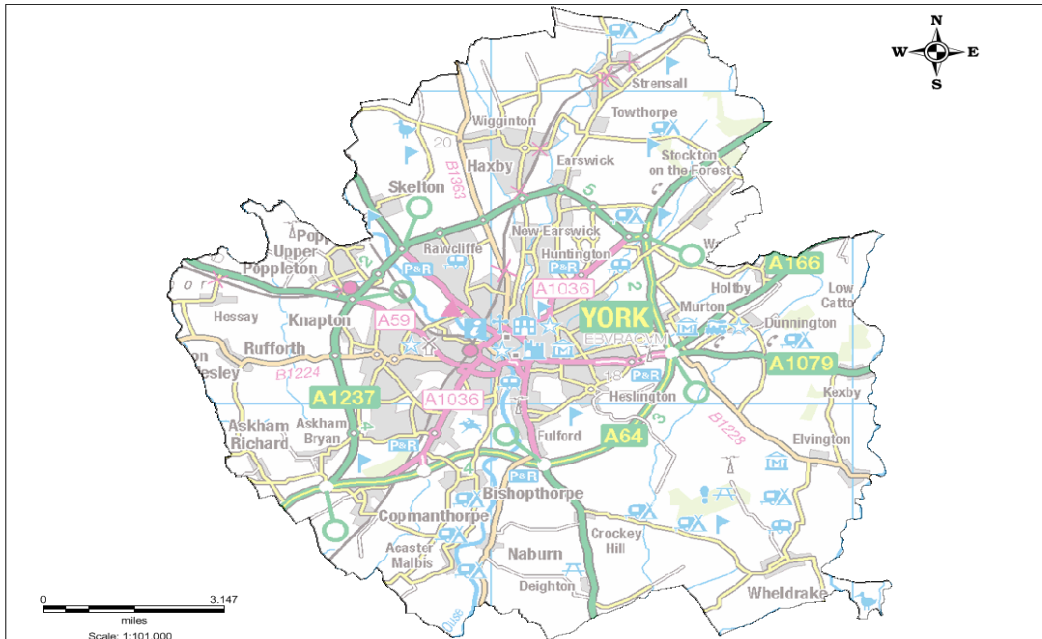
- 2.9 The council held a public consultation from 24 June to 5 August 2015, to gain the views of residents and businesses with regard to the appropriate localities and number of sexual entertainment venues. A total of 329 online survey responses were submitted. The results of this consultation has assisted in the formulation of this policy.
- 2.10 Following the initial public consultation the council has consulted on the policy, the following organisations and people were consulted:
- Representatives of local residents
 - Representatives of local businesses
 - Representatives of existing licence holders
 - North Yorkshire Police
 - City of York Council – Director of Children’s Services, Education & Skills
 - City of York Council – Director of Adult Social Care
 - City of York Council – Director of Public Health
 - Safer York Partnership

- York Primary Care Trust

2.11 The consultation on the policy took place from 19 September to 14 November 2016.

3. Profile of York

- 3.1 City of York Council is a unitary authority covering an area of approximately 105 square miles, with a population of approximately 202,000 (2014 est.) which includes a small black and minority ethnic population (9.81%). It comprises the urban area of York that is surrounded by many small rural and semi-rural settlements covered by parish councils.
- 3.2 City of York Council Authority Area



Reproduced from the Ordnance Survey with the Permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. City of York Council 100020818 2010.

- 3.3 York is a nationally and internationally prominent city for a range of reasons. Not only is it an historical centre for England, it is also one of the most visited tourist destinations in the UK. York has excellent rail links across the country, is a centre of academic excellence, and is an important location for the Church of England. Each year around 22,500 higher education students make up approximately 11% of York's population in term time.
- 3.4 Tourism and leisure are important industries for York, attracting over 6.8 million visitors a year, who spend £608 million in the city. Over 20,300 jobs have been created in the tourist and leisure industry sector. This level of tourism can, however, present challenges to the city in balancing the requirements of residents against the economic benefits that tourism can bring.
- 3.5 As an historical centre the city has many historical buildings and museums, such as York Minster, Merchant Adventurers Hall, the Guildhall, Yorkshire Museum, Castle Museum and the Jorvik Viking Centre. The city has many outstanding restaurants, numerous high quality traditional and historic public houses and bars, and entertainment venues, including 3 cinemas and 6 theatres.

4. General principles

- 4.1 In determining licensing applications the council will treat each application on an individual basis, on its own merits, taking into account this policy, the guidance issued by the Home Office and the Act.
- 4.2 A decision to refuse the licence application may not be made on moral grounds or that the establishment may cause offence.

Mandatory grounds for the refusal of an application

- 4.3 Mandatory grounds for the refusal of an application for a sex establishment are that the applicant:
- is under the age of 18;
 - is for the time being disqualified from holding a sex establishment licence;
 - is not a body corporate, and is not resident or has not been resident in an EEA state for six months immediately preceding the date of the application;
 - is a body corporate which is not incorporated in an EEA state;
 - has in the period of 12 months preceding the date of the application 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.

Discretionary grounds for the refusal of an application

- 4.4 Discretionary ground for the refusal of an application for a sex establishment are that:
- the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
 - if the licence were to be granted, 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 of such a licence if he made the application himself;
 - the number of sex establishments, or sex establishment 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 that locality;
 - the grant would be inappropriate, having regard –
 - to the character of the relevant locality;
 - to the use to which any premises in the vicinity are put;
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Suitability of applicant

- 4.5 When considering the suitability of the applicant to hold a licence the council will take into account such matters as it considers to be relevant including but not limited to whether the applicant:

- is honest;
- is qualified by experience to run the type of sex establishment in question;
- has a clear understanding of the conditions that may be attached to the licence;
- has no unspent conviction of a nature that deem him/her unsuitable;
- a management structure is in place 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 dancers;
- will act in the best interests of dancers / performers, e.g. the facilities they enjoy, how they are protected and how and by who their physical and psychological welfare is monitored;
- can be relied upon to protect the public, e.g. transparent charging, freedom from solicitation;
- can show a track record of management of compliant premises, or that he/she will employ individuals who have such a track record.

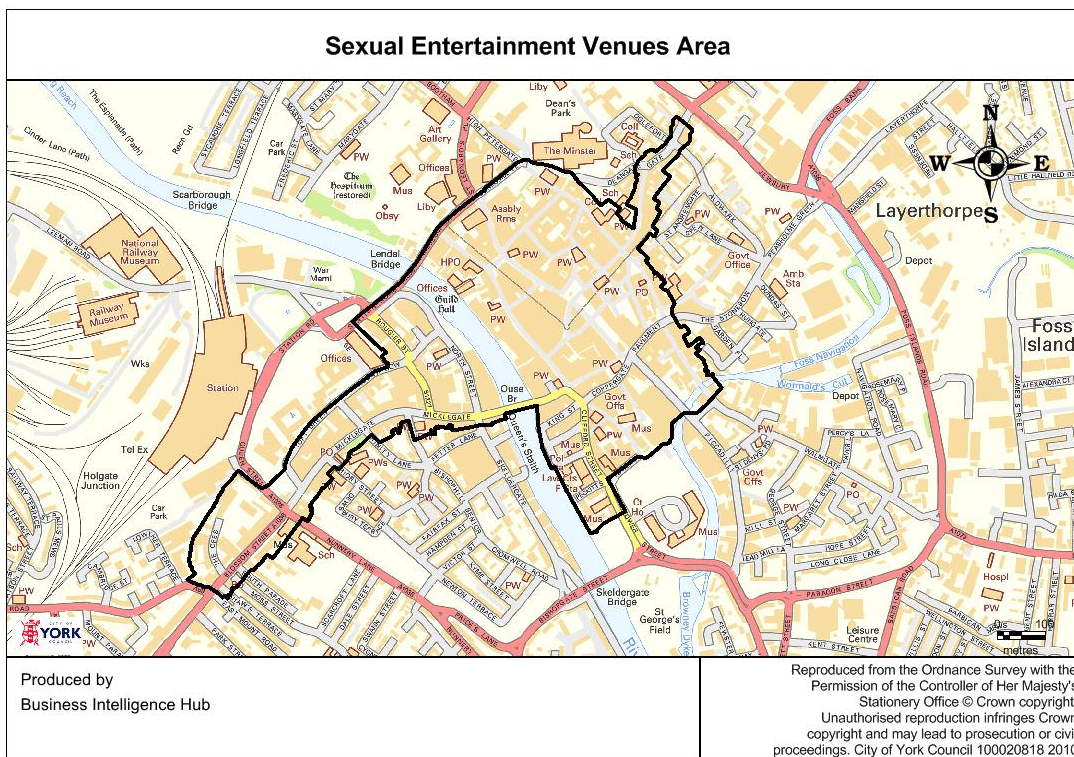
4.6 The council will require the applicant to identify the proposed manager or beneficiary of the business. In considering the suitability of these persons the council will apply the principles at 4.5 of this policy.

Appropriate numbers and localities

- 4.7 There is provision within the Act which enables the council to impose a numerical control on the number of sex establishments in a particular locality. The control applies not only to the number of sex establishments overall, but also to the number of each kind premises.
- 4.8 The council may refuse a licence on the grounds that the number of licences of that type is equal to or exceeds the number which the authority considers is appropriate for that locality. The council has considered the authority area in order to identify whether there are any localities in which the licensing of sex establishments is appropriate.
- 4.9 The initial public consultation revealed that a majority of respondents considered that sexual entertainment venues are inappropriate in the vicinity to premises/places with particular sensitive uses, as follows:
- Residential areas
 - Parks / play areas
 - Places of worship
 - Women's refuge facilities
 - Family leisure facilities such as cinemas, theatres and concert halls
 - Youth facilities
 - Places used for celebration or commemoration
 - Schools and other education establishments
 - Cultural leisure facilities such as libraries and museums

- Historic buildings
- Retail shopping areas

- 4.10 The council agrees that these uses are sensitive and that sexual entertainment venues are generally not appropriate near them.
- 4.11 The initial public consultation indicated that rural, built up and residential areas were unacceptable localities for sexual entertainment venues to be located. The council has considered the authority's area and has determined that all areas outside of the city centre to be unacceptable localities for sexual entertainment venues to be located due to their proximity to rural, built up or residential areas.
- 4.12 The public consultation also indicated, by a small majority, that the city centre late night economy area would be an acceptable locality to locate sexual entertainment venues.
- 4.13 The extent of the city centre area is indicated on the following map:



- 4.13 Therefore, it is the council's policy that there is no locality outside the city centre area (identified above) in which it would be appropriate to licence a sexual entertainment venue. Accordingly the appropriate number of sexual entertainment venues outside of this area is nil.
- 4.14 Taking into consideration all the matters mentioned in this section the appropriate number of sexual entertainment venues in the city centre area is a maximum of two, providing those premises are not to near and/or do not impact properties with sensitive uses or in sensitive locations.

- 4.15 The council has not determined a limit on the number or locality in relation to sex shops or sex cinemas. These applications will be dealt with on a case by case basis. Applicants should, however, take into consideration paragraph 4.9 of this policy with regard to sensitive use premises and areas.

Links to other Legislation

- 4.16 The council will consider and have regards to the following legislation when applications are determined:
- a) Crime and Disorder Act 1998
 - b) The Provision of Services Regulations 2009
 - c) Equality Act 2010
 - d) Human Rights Act 1998

Planning

- 4.17 The use of premises is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.
- 4.18 In general, all premises which are the subject of an application, should have the benefit of planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights.
- 4.19 In addition, all new developments and premises which have been subject to works that require an application covered by Building Regulations, should have building control approval in the form of a Building Regulations Completion Certificate. The onuses will be on the applicant to demonstrate that any such works have been approved by a building control body.
- 4.20 Any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct.

Advertising

- 4.21 As part of the standard conditions attached to licences there is a requirement that all advertising and the external appearance of the premises must be approved by the council. This approval will be sought at a sub-committee hearing. Applicants will be entitled to attend the hearing. Please contact the Licensing Section for further information on how to submit changes to advertising material and external appearance.

Staff Training

- 4.22 The council recommends that all persons employed on licensed premises are trained and made aware of their responsibilities in relation to the Act, especially the offences under the Act, and the conditions of the licence.

- 4.23 Licensed premises will be required to document training undertaken by staff. Such records will be kept for a minimum of one year and will be made available for inspection on request by an authorised officer or the police.

Fining

- 4.24 The council is aware that in some sexual entertainment venues it is the usual practice of some businesses to fine dancers for misdemeanours such as chewing gum, wearing inappropriate clothing or being late for a shift. The practice of fining can lead to an air of mistrust and resentment in the work place. More importantly the council is aware that in a majority of cases of fining that have been noted in premises, the predominantly male management fine female dancers; however they do not fine bar staff or door staff.
- 4.25 Therefore, for reasons of gender inequality, a standard condition has been imposed on all new and renewed licences to prohibit the practice of fining.

Exemptions

- 4.26 Under the Act there is an exemption for sexual entertainment venues for premises which provide relevant entertainment on an infrequent basis. These are defined as premises where –
- no relevant entertainment has been provided on no more than 11 occasions within a 12 month period;
 - no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
 - no such occasion has lasted longer than 24 hours
 - other premises or types of performances or displays exempted by an order of the Secretary of State.
- 4.27 This exemption does not apply to sex shops or sex cinemas.

5. Application Procedure

Application procedure

- 5.1 Applications must be made to the council in the form prescribed, which is available from the Licensing Section or at www.york.gov.uk/licensing.
- 5.2 The applicants/operators suitability will be checked before a licence is granted. The suitability of the applicant/operator is important to ensure that the interests of the public are protected. The council will use the methods detailed below to ensure that the proposed licence holder and operator:
- is honest
 - has a clear understanding of the conditions that may be attached to the licence
 - has a suitable business plan which will deliver compliance of the standard conditions
 - has no unspent convictions of a nature that deem him/her unsuitable
- 5.3 Applicant/operator suitability checks may be achieved by the following means:
- application form
 - criminal record check
 - personal interview
 - accreditation
- 5.3 On receipt of the application it will be sent to North Yorkshire Police who may conduct a check. Applicants/operators may be asked to provide basic Disclosure and Barring Service checks, or attend an interview, to support their application.
- 5.4 Applications for sexual entertainment venue sex establishment licences will also show that there are clear policies and codes of conduct in place, to protect staff and the interests of customer, in relation to:
- employee welfare policy
 - code of conduct for employees
 - code of conduct for customers
 - pricing policy
- 5.5 These criteria will be taken into account when the council determine the licence. Non-compliance with one or more of the criteria will not necessarily exclude the operator from holding a licence, providing the applicant is able to prove to the council that the interest of the public is protected.
- 5.6 Checks/enquiries may also be made with regard to the operator's company structure, to ensure that the operator is not working on behalf of an individual or company that would not be granted a licence in their own right.
- 5.7 These checks/enquiries may be made via North Yorkshire Police, Companies House, personal interview or applicants may be asked to provide business records.

Fees

- 5.8 The fee must be submitted as part of the application. The fee is based on the recovery of costs incurred by the council in determining the application.

Notices

- 5.9 It is a legal requirement that the applicant must advertise the application in the following ways:
- publish an advertisement in a local newspaper within 7 days of the application being submitted to the council
 - display a notice of the application on or near the premises for 21 consecutive days
 - send a copy of the notice of application to the Chief Officer of Police for North Yorkshire within 7 days of the application being submitted to the council
- 5.10 Proof that the applicant has advertised the application will be required.

Objections

- 5.11 Anyone can object to an application for a sex establishment. Objection should be received by the council no later than 28 days after the date that the application was received by the council. Objections can be on any matter but should not be based on moral grounds/values. Appropriate weight will be given to objections which relate to the purpose of the legislation which is the control of sex establishments.
- 5.12 The council will notify the applicant in writing of the general terms of any objection it receives within the 28 days of the application. Objectors will, however, remain anonymous and efforts will be made to redact the contents of the objections so the objector's identity remains anonymous. If the objectors wish for their details to be released to the applicant they should make this clear in their objection.

Hearings - decision making process

- 5.13 The council's schedule of delegation can be found at Appendix B.
- 5.14 It is the council's practice to provide notice of committees and sub-committee hearings to all interested parties (applicants and objectors) five days before the hearing as laid down in the Local Government Act 1972. This notice will provide the date and time of the hearing, the procedure for the hearing, and will require the addressee to confirm their attendance and the attendance of any witnesses they may wish to call. The hearing will take place in public except where the public interest requires otherwise.
- 5.15 In determining licence applications under the Act the council will take into consideration the application before it, any objections received as well as local knowledge including local issues and cultural sensitivities.
- 5.16 Every decision to refuse a licence made by the Gambling, Licensing and Regulatory Committee, sub-committee or officers will be accompanied by clear reasons for the decision.

- 5.17 Where possible a decision will be given verbally at the sub-committee hearing, with the written reasons to follow in due course. However in exceptional circumstances the sub-committee may defer the decision in order to allow further consideration of the case and in such circumstances the decision and reasons will be issued in writing to all parties.

Conditions

- 5.18 The council will impose standard conditions on all licences. However, if deemed necessary, the council may add to, change or replace the standard conditions with conditions that are relevant to the application. The standard conditions can be found at Appendix C.
- 5.19 Through the standard conditions the council seeks to ensure that sex establishments are well managed and supervised, restrict sexual entertainment activities and the manner in which they are permitted to be provided, protect performers, protect customers and control the impact that the premises has in relation to the general public and locality.
- 5.20 Any change to the standard conditions will be applied to licences at the time of renewal when all conditions are reviewed.
- 5.21 Where it is considered appropriate the council may attach conditions, in addition to the standard conditions, to a licence in the individual circumstances of an application.

Right of appeal

- 5.22 Only the applicant has the right to appeal the council's decision to the Magistrate's Court and only on limited grounds, within 21 days of written reasons of decision. There is no right to appeal for objectors or statutory authorities. Further information can be found at Section 27 of the Act.

Term of licence

- 5.23 A sex establishment licence shall remain in force for a maximum period of one year. The authority may grant a shorter licence period if it thinks fit. A licence may be brought to an early end by being surrendered or revoked.

Renewal / transfer

- 5.24 The process for applying for a renewal or transfer of the licence is the same as when applying for a new licence.
- 5.25 Applications for the renewal of a licence must be made prior to the date of expiry. The licence is deemed to continue until the application is withdraw by the applicant or determined by the licensing authority.

Variation

- 5.26 A licence holder can apply to vary the terms, conditions or restrictions of a licence at any time. The 1982 Act does not set out procedural requirements in relation to variations.

Licence holders should contact the Licensing Section before making their application to discuss if a new application is more suitable.

Revocation

- 5.27 The council may revoke the sex establishment licence if information is received in relation to either the mandatory grounds, detailed at paragraph 4.3, or the first two of the discretionary grounds, details at paragraph 4.4.
- 5.28 Should the council consider revocation of the licence to be appropriate, the licensee will be given an opportunity to appear before and be heard by the Gambling, Licensing and Regulatory Committee.
- 5.29 The licensee will be given a statement in writing of the reasons for revocation within seven days of the requirement being made.
- 5.30 The revocation will take effect once the appeal period has expired, or if an appeal is lodged after the determination or abandonment of the appeal.

Waiver

- 5.31 Provisions within the Act allow licensing authorities to waive the need for a licence. Should the council decide that a licence would be unreasonable or inappropriate, it may waive the need for a licence, for example in the case of a medical book shop, sex clinic, in border line cases, to correct errors or for minor or temporary events.
- 5.32 The council would only waive the need for a licence where activity is low risk and/or temporary. However, a waiver will not be considered in the cases where a licence is reasonable and appropriate or where there is public interest.
- 5.33 The application for a waiver uses the same form as an application for a new licence; this should be accompanied by a letter which describes the circumstances under which the need for a licence should be waived. There is no requirement to advertise the application. There is a fee. Applicants should contact the Licensing Section before making their application.
- 5.34 The decision to waive the need for a licence will be taken at a licensing sub-committee hearing and a Notice of Waiver will be issued in due course.
- 5.35 Unsuccessful applications for waivers will be notified accordingly and provision will be made for them to make a formal application for a sex establishment licence.

5. Enforcement

- 5.1 In carrying out its enforcement duties with regards to the inspection of premises, and the powers to institute criminal proceedings in respect of certain offences under the Act, the council will endeavour to be:
- **Proportionate:** regulators should only intervene when necessary, remedies should be appropriate to the risk posed and costs identified and minimised;
 - **Accountable:** regulators must be able to justify decisions and be subject to public scrutiny;
 - **Consistent:** rules and standards must be joined up and implemented fairly;
 - **Transparent:** regulators should be open and keep regulations simple and user friendly;
 - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 5.2 The council will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 5.3 The council will also adopt a risk-based inspection programme in line with government recommendations around better regulation and the principles of the Hampton Review.
- 5.4 The main enforcement and compliance role in terms of the Act will be to ensure compliance with the conditions placed upon the licence.
- 5.5 The council also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 5.6 The council's enforcement/compliance protocols/written agreements are available upon request.

Appendix A Interpretation

Advertisement means any word, letter, image, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of, advertisement or announcement.

Authorised officer means an officer employed by City of York Council and authorised by the council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982.

The council means City of York Council.

Display of nudity means:

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

Dancer / performer means dancer, entertainment, performer, or other such person employed, or otherwise, to provide relevant entertainment.

Licence means any sex establishment that the council can grant under this Act.

Licensee means the holder of a sex establishment licence.

Licensed area means the part of the premises marked on the plan where licensable activities are to take place.

Premises includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted.

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

Responsible person means the person nominated by the licensee who has personal responsibility for and be present on the premises whilst the premises are open to the public. This may be the manager or the relief manager.

Sex shop means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in the connection with, or for the purpose of stimulating or encouraging sexual activity.

Sexual entertainment venue means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (i.e. a person who is responsible for organisation of management of the entertainment or the premises).

Standard conditions will mean any terms, conditions or restrictions contained or referred to in the schedule to a licence granted under Schedule 3, but does not include any private dwelling to which the public is not admitted.

Unsolicited (in relation to advertising) means any material that is unasked for, not looked for or unsought, i.e. newspaper advertising, flyers, posters, radio advertisements, television advertising, advertising hoardings etc.

Vehicle means a vehicle intended or adapted for use on roads.

Appendix B Schedule of Delegation

Functions under Schedule 3 are the responsibility of the full council of the appropriate authority. Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.

The council has appointed a Gambling, Licensing and Regulatory Committee of 15 councillors. Licensing functions will often be delegated to a subcommittee of three councillors or, in appropriate cases to officers of the council.

The schedule of delegation in relation to sex establishment licences is as follows:

Matter to be dealt with	Committee	Sub-committee	Officers
Approval of policies and standard conditions relating to sex establishment licensing	All cases		
Application for the grant of a sex establishment licence, sex shop and/or sex cinema		All cases	
Application for the grant of a sex establishment licence, sexual entertainment venue		All cases	
Application for the renewal of a sex establishment licence opposed, sex shop or sex cinema		All cases	
Application for the renewal of a sex establishment licence unopposed, sex shop or sex cinema			All cases
Application for the renewal of a sex establishment licence opposed, sexual entertainment venue		All cases	
Application for the renewal of a sex establishment licence unopposed, sexual entertainment venue			All cases
Application for transfer or variation of a sex establishment licence opposed, sex shop or sex cinema		All cases	
Application for transfer or variation of a sex establishment licence unopposed, sex shop or sex cinema		All cases	
Application for transfer or variation of sex establishment licence opposed, sexual entertainment venue		All cases	
Application for transfer or variation of a sex establishment licence unopposed, sexual entertainment venue		All cases	
External appearance of the premises and advertising		All cases	

Appendix C
Standard Conditions

Sexual Entertainment Venues

General

1. In accordance with Home Office guidance, where a condition conflicts with a condition in a Licensing Act 2003 premises licence, the more onerous applies.
2. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect, unless an application for renewal is submitted in the manner prescribed by the council.
3. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
4. 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.
5. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

6. The licence or a certified copy must be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence must be kept on the premises and be available for inspection by an authorised officer of the Council.

Hours of opening

7. Except with the written consent of the council, the premises will only open to the public during the following hours:

Monday	21:00 – 03:30	Friday	21:00 – 04:30
Tuesday	21:00 – 03:30	Saturday	21:00 – 04:30
Wednesday	21:00 – 03:30	Sunday	21:00 – 03:30
Thursday	21:00 – 03:30		

Conduct of the premises

8. Relevant entertainment will only be performed by the dancer. There must be no audience participation.
9. Dancers will only perform on the stage area or in booths/areas for VIPs, as identified on the plan attached.
10. There must be no physical contact (touching) by a customer of a dancer while a performance is taking place, except for the placing of gratuities into the hand of the dancer

at the beginning or conclusion of the performance. A dancer may have physical contact with the customers while the performance is taking place, this is restricted to touching the customers knees (including sitting on their knee), lower legs, upper chest, arms, face and head. There will be no physical contact of the pubic area or genitals.

11. Any performance will be restricted to dancing and the removal of clothes. There will not be any other form of sexual activity or stimulation which, for the avoidance of doubt, includes kissing.
12. Sex toys must not be used and penetration of the genital area by any means must not take place.
13. Dancers shall re-dress at the conclusion of the performance.
14. Customers will not be permitted to throw money at the dancers.
15. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
16. No person shall take any photographs, videos or other similar recordings (including mobile phones and video streaming) of the authorised relevant entertainment.

External appearance

17. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.
Persons who appear to be under the age of 25 will be required to show proof of age.

18. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council in writing before work is undertaken.
19. Access to the licensed area of the premises should be through a lobby area which is constructed in such a way that the inside of the licensed premises where relevant entertainment takes place is not visible to passing members of the public when the doors of the premises are opened.
20. Windows and opening to the premises, other than entrances, shall be obscured in a manner and with such material approved by the council. Door entrances shall also be obscured by blinds or material approved by the council so as to prevent any member of the public from seeing through to the premises whilst relevant entertainment is taking place.
21. External signage will only be illuminated between 9.00pm and 5.00am, and movable signs placed outside the premises will be removed between 4.30am and 9.00pm.

Advertising

22. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by

the council in writing.

23. Staff employed or subcontracted by the premises will not verbally or otherwise promote, tout or advertise the premises, except by way of flyers. Staff employed or subcontracted by the premises will not direct potential customers to transport connected with the premises.
24. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Therefore, the distribution of flyers is only permitted between the hours of 9.00pm and 3.30am. The licensee will remove any leaflets/flyers from the highway within a 100 metre radius of the premises by 5.00am. Flyers must not be distributed by and to persons under the age of 18 years.

Layout of the premises

25. Access to ground floor premises may only be through two 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. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
26. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
27. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.
28. Where works necessitate the premises being closed for a long period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the council of the satisfactory completion of the work.
29. All parts of the premises shall be well maintained and kept in a clean condition to the satisfaction of the council.

Management of the premises

30. Where the 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 will be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.
31. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") will have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination will be produced on demand to an authorised officer of the council or the police.
32. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.

33. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue (“the manager”), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
34. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee’s control of the premises.
35. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
36. No person under the age of 18 will be admitted to the premises.
37. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.
38. The licence holder will not employ any person under the age of 18 in any capacity.
39. The licensee will comply with all statutory provisions and any regulations made hereunder.
40. The licensee will provide, for approval in writing of both the police and the licensing authority, a code of practice for the dancers. This code must be given to all dancers and displayed in staff areas. This code must be made available upon request to both the police and authorised officers.
41. The licensee will provide, for approval in writing of both the police and the licensing authority, a code of conduct for customers; this must be printed in a manner which is clear and easy to read during normal operation of the premises. This code must be prominently displayed at each entrance to the premises, at the entrance to any private dance areas and in suitable locations within the licensed premises, such locations to be agreed with the council, such as at bars.
42. Price lists for both drinks and sexual entertainment will be clearly displayed at each entrance to the premises, at each bar and at each table.
43. Suitable and sufficient training will be provided to all staff including the nominated responsible person. The training will be recorded and the training records must be made available upon request to both the police and authorised officers.
44. The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he/she is responsible for its conduct.

Safety and security

45. A colour digital CCTV system will be maintained and operational at the premises at all times when licensable activities are being carried out and at any other times when member of the public are present on the premises.
46. The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence, including corridors, stairways, each dance booth and VIP areas (excluding within toilets and changing rooms). The CCTV system will cover the main

entrances and external areas of the premises occupied by the public, for example queuing areas, beer gardens, smoking areas and car parks.

47. The locations of CCTV cameras are identified on the site plan of the premises. No amendments to the locations of the cameras will be made without prior consultation with North Yorkshire Police and the council.
48. The CCTV system will be of a satisfactory resolution quality which will enable the identification of persons and activities, and other fine details such as vehicle registration number plates.
49. Recorded CCTV images will be maintained and stored for a continuous period of 28 days. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
50. Where CCTV is recorded onto a hard drive system, any DVDs subsequently produced will be in a format so it can be played back on a standard DVD player.
51. The nominated person ("the manager") must be trained in the use of any such CCTV equipment and be able to produce CCTV images to the police or Licensing Authority.
52. CCTV footage will be controlled and kept in a secure environment to prevent tampering and unauthorised viewing.
53. The data controller, under the Data Protection Act 1998, who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of the police or an authorised officer of the council, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made the data controller will ensure that they are secured to prevent any overwriting.
54. A minimum of two Security Industry Authority registered door staff (numbers to be subject to police and licensing authority approval) will be present on the premises during the performance of relevant entertainment.
55. A refusals/incident/accident register will be maintained and shall record all refusals relating to alcohol, access to the premises and all incidents or accidents.
56. The licensee will ensure that a fire safety risk assessment is carried out in connection with the premises, and is retained on the premises at all times and available for inspection by an authorised officer or a member of the Fire Authority.
57. The licensee will maintain good order in the premises at all times, and ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents in the vicinity and persons passing by.

Staff welfare

58. Dancers will be aged 18 years or over.
59. Before a dancer is permitted to work on the premises the licensee will ensure that the dancer:
 - a) has not been convicted of theft, drug offences or prostitution
 - b) has the right to work in the UKThe licensee will keep records of the checks, including copies of any documentation such as a basic disclosure, passport, visa, driving licence or national insurance number provided

by the dancer.

60. All premises that provide relevant entertainment will provide dancers with copies of the following documents:
 - a) A copy of the conditions attached to the Sex Establishment Licence;
 - b) Details of any other conditions applied by management of the premises;
 - c) A copy of the code of practice for dancers;
 - d) A copy of the code of conduct for customers;
 - e) Price lists for drinks and sexual entertainment.
61. Dancers will be provided with separate secure dressing rooms, facilities to secure valuables and proper sanitation facilities. No person other than performers and authorised staff will be allowed in or near the dressing rooms, therefore safe and controlled access will be maintained at all times. The documents detailed in condition 60 will be displayed in the dressing rooms.
62. There will be at least one female member of staff authorised to be responsible for the safety and welfare of the dancers. This staff member must on the premises at all times when licensable activities are taking place.
63. All booths and VIP areas used for private dances must be visible to supervision and must not have closing doors; any curtains used must be approved by the council in writing.
64. All booths and VIP areas used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct contact with a SIA registered door supervisor working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.
65. Dancers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
66. Any person on the premises who can be observed from outside the premises will be properly and decently dressed.
67. The practice of fining is prohibited.
68. Customers and staff must not be allowed to interact while using the smoking area, and where possible a separate smoking area should be provided for staff. Dancers must be covered up at all times with knee length robes or coats whilst using the smoking areas.
69. Throughout the lap or table dance customers will remain seated and fully clothed, with their hands clearly visible, either resting on the arms of the chair/sofa or on the seat cushion, or customers must be asked to sit on their hands.
70. If a dancer is invited to have a drink with a customer, the dancer will remain fully clothed during this period. Dancers will not be paid commission on the sale of beverages.
71. On leaving the premises dancers will be escorted to their transport by a SIA registered door supervisor.

Vessels, vehicles and stalls

72. In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days written notice is given to the council of such intended removal. The council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee

as it may deem reasonable in respect of such application.

73. The requirements of condition 72 will not apply to a vessel, vehicle or stall habitually operating from a fixed location, which is regularly moved, whether under its own propulsion or otherwise, from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that specified in the licence.
74. Vehicles must not be used for personal solicitation, touting or advertising.

Variation of conditions

75. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
76. The licensee may apply to the council to vary any of the terms of the licence.
77. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.

Standard Conditions

Sex Shops

General

1. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. 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.
4. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

5. The licence or a certified copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the council.

Hours of opening

6. Except with the written consent of the council, the premises will only open to the public during the following hours:

Monday	09:00 – 20:00	Friday	09:00 – 20:00
Tuesday	09:00 – 20:00	Saturday	09:00 – 20:00
Wednesday	09:00 – 20:00	Sunday	12:00 – 20:00
Thursday	09:00 – 20:00		

Conduct of the premises

7. The premises will be conducted primarily for the purpose of the sale or hire of goods by retail.
8. The licensee, or any other person concerned in the conduct or management of the premises, will only obtain custom by means of personal solicitation or touting from the premises in such a way that it does not cause concern to the public or the licensing authority. All literature used will not contain images or text of a sexually explicit, obscene or offensive nature.

9. No part of the premises will be used by prostitutes.
10. All sex articles or other items displayed for sale, hire, exchange or loan within the premises will be clearly marked to show the price being charged.
11. All printed material offered for sale, hire, exchange or loan will be available for inspection prior to purchase and a notice to this effect will be displayed in a conspicuous position within the premises.
12. No film, DVD or video recording (or computer game) will be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
13. No moving picture will be provided on display at the licensed premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview of films upon request, being no longer than 3 minutes in length.
14. Items offered for sale, hire, exchange or used in any promotion/advertising must not contravene any current legislation i.e. Section 12 Video Recordings Act 1984 (as amended).

External appearance

15. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.
Persons who appear to be under the age of 25 will be required to show proof of age.

16. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council in writing before work is undertaken.
17. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
18. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises on the public highway.

Advertising

19. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
20. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Flyers must not be distributed by and to persons under the age of 18 years.

Layout of the premises

21. Access to ground floor premises may only be through two 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. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
22. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
23. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

24. Where the 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 will be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.
25. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") will have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.
26. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.
27. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue ("the manager"), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
28. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee's control of the premises.
29. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
30. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).

31. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.
32. No person under the age of 18 will be admitted to the premises.
33. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.
34. The licence holder will not employ any person under the age of 18 in any capacity.

Vessels, vehicles and stalls

35. In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days written notice is given to the council of such intended removal. The council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application.
36. The requirements of condition 35 will not apply to a vessel, vehicle or stall habitually operating from a fixed location, which is regularly moved, whether under its own propulsion or otherwise, from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that specified in the licence.
37. Vehicles must not be used for personal solicitation, touting or advertising.

Variation of conditions

38. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
39. The licensee may apply to the council to vary any of the terms of the licence.
40. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.

Standard Conditions

Sex Cinemas

General

1. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. 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.
4. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

5. The licence or a certified copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the council.

Hours of opening

6. Except with the written consent of the council, the premises will only open to the public during the hours specified in the licence.

Conduct of the premises

7. The premises will be conducted primarily for the purpose of the exhibition of films.
8. The licensee, or any other person concerned in the conduct or management of the premises, will only obtain custom by means of personal solicitation or touting from the premises in such a way that it does not cause concern to the public or the licensing authority. All literature used will not contain images or text of a sexually explicit, obscene or offensive nature.
9. No part of the premises will be used by prostitutes.

External appearance

10. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.
Persons who appear to be under the age of 25 will be required to show proof of age.

11. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council before work is undertaken.
12. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
13. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises.

Advertising

14. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
15. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Flyers must not be distributed by and to persons under the age of 18 years.

Layout of the premises

16. Access to ground floor premises may only be through two 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. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
17. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
18. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

24. Where the 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 will be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.
25. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") will have personal responsibility for and be present on

the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.

26. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.
27. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue (“the manager”), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
28. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee’s control of the premises.
29. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
30. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
31. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.
32. No person under the age of 18 will be admitted to the premises.
33. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.
34. The licence holder will not employ any person under the age of 18 in any capacity.

Safety and security

35. A colour digital CCTV system will be maintained and operational at the premises at all times when licensable activities are being carried out and at any other times when member of the public are present on the premises.
36. The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence, including corridors and stairways. The CCTV system will cover the main entrances and external areas of the premises occupied by the public, for example queuing areas, smoking areas and car parks.
37. The locations of CCTV cameras are identified on the site plan of the premises. No amendments to the locations of the cameras will be made without prior consultation with North Yorkshire Police and the council.
38. The CCTV system will be of a satisfactory resolution quality which will enable the identification of persons and activities, and other fine details such as vehicle registration number plates.

39. Recorded CCTV images will be maintained and stored for a continuous period of 28 days. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
40. Where CCTV is recorded onto a hard drive system, any DVDs subsequently produced will be in a format so it can be played back on a standard DVD player.
41. The nominated person (“the manager”) must be trained in the use of any such CCTV equipment and be able to produce CCTV images to the police or Licensing Authority.
42. CCTV footage will be controlled and kept in a secure environment to prevent tampering and unauthorised viewing.
43. The data controller, under the Data Protection Act 1998, who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of the police or an authorised officer of the council, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made the data controller will ensure that they are secured to prevent any overwriting.
44. Regular checks will be carried out in the auditorium(s) when screenings are taking place.
45. A refusals/incident/accident register will be maintained and shall record all refusals relating to alcohol, access to the premises and all incidents or accidents.
46. The licensee will ensure that a fire safety risk assessment is carried out in connection with the premises, and is retained on the premises at all times and available for inspection by an authorised officer or a member of the Fire Authority.
47. The licensee will maintain good order in the premises at all times, and ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents in the vicinity and persons passing by.

Vessels, vehicles and stalls

48. In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days written notice is given to the council of such intended removal. The council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application.
49. The requirements of condition 48 will not apply to a vessel, vehicle or stall habitually operating from a fixed location, which is regularly moved, whether under its own propulsion or otherwise, from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that specified in the licence.
50. Vehicles must not be used for personal solicitation, touting or advertising.

Variation of conditions

51. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
52. The licensee may apply to the council to vary any of the terms of the licence.

53. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.

This page is intentionally left blank

CYC – Director of Communities and Neighbourhoods
CYC – Director of Adult Social Care
CYC – Director of Public Health
CYC – Director of City & Environmental Services
CYC – Director of Children’s Services
CYC – Assistant Director Planning & Sustainable Development
CYC – Assistant Director Children & Families
CYC – Assistant Director Public Health
CYC – Assistant Director Adult Social Care
CYC – Assistant Director Communities, Culture & Public Realm
CYC – Assistant Director Housing & Community Safety
CYC – Assistant Director Governance & ICT
CYC – Head of Communities and Equalities
CYC – Head of Service (Safeguarding)
Ward Councillors
Parish Councils
Chief Superintendent, North Yorkshire Police (York)
City of York Group Manager, North Yorkshire Fire & Rescue Service
Safer York Partnership
British Transport Police, York Police Station,
Chief Executive, York Hospital
York Hospitality
Pubwatch
Business Improvement District
Make it York
Coppergate Centre
Clifton Moor Shopping Centre
Monks Cross Shopping Centre
Vangarde York Shopping Centre
York Designer Outlet
Stonegate Traders
Chamber of Commerce
York Retailers Forum
CAB, Blossom Street
CVS, Priory Street
Churches Together in York
York LGBT
Survive
Independent Domestic Abuse Service
Older People’s Assembly
Older Citizens’ Advocacy York
Older People’s Forum
Age UK York

York Private Hire Association
York Taxi Association
Independent Taxi Association