



## Notice of a meeting of Licensing Committee

**Wednesday, 4 December 2019**  
**6.00 pm**  
**Pittville Room - Municipal Offices, Promenade**

<b>Membership</b>	
<b>Councillors:</b>	David Willingham (Chair), Paul McCloskey (Vice-Chair), Tim Harman, Diggory Seacome, Angie Boyes, Mike Collins, Roger Whyborn, Dennis Parsons, Jo Stafford and Simon Wheeler

The Council has a substitution process and any substitutions will be announced at the meeting

## Agenda

<b>1.</b>		<b>APOLOGIES</b>	
<b>2.</b>		<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>		<b>PUBLIC QUESTIONS</b> These must be received no later than 12 noon on the fourth working day before the date of the meeting	
<b>4.</b>		<b>MINUTES OF THE LAST MEETING</b> To approve the minutes of the full committee meeting held on 4 <sup>th</sup> September 2019.	(Pages 3 - 8)
<b>5.</b>		<b>MINUTES OF SUB-COMMITTEE MEETINGS</b> To approve the minutes of the miscellaneous sub-committee meeting held on 6 <sup>th</sup> November 2019 and the alcohol and gambling sub-committee meeting held on 7 <sup>th</sup> November 2019.	(Pages 9 - 24)
<b>6.</b>		<b>REVOCATION OF STREET TRADING CONSENT</b>	(Pages 25 - 30)
<b>7.</b>		<b>RESPONSE TO SEXUAL ENTERTAINMENT VENUE POLICY REVIEW</b>	(Pages 31 - 70)
<b>8.</b>		<b>SAFEGUARDING - TAXIS AND PRIVATE HIRE</b>	(Pages 71 - 84)
<b>9.</b>		<b>NOMINATION OF ENTE CHAMPION FOR CHELTENHAM</b>	(Pages

			85 - 94)
10.		REVIEW OF PREVIOUS DECISIONS	
11.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION	
12.		DATE OF NEXT MEETING 4 <sup>th</sup> March 2020.	

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## Licensing Committee

**Wednesday, 4th September, 2019**  
**6.00 - 7.30 pm**

Attendees	
<b>Councillors:</b>	David Willingham (Chair), Paul McCloskey (Vice-Chair), Diggory Seacome, Angie Boyes, Mike Collins, Roger Whyborn, Dennis Parsons and Simon Wheeler
<b>Also in attendance:</b>	Louis Krog (Licensing Team Leader), Jason Kirkwood (Senior Licensing Officer), Vikki Fennell (Legal Officer), Judith Baker (Minutes)

## Minutes

### 1. APOLOGIES

Apologies were received from Councillor Harman.

The Chairman welcomed the new Senior Licensing Officer.

### 2. DECLARATIONS OF INTEREST

There were none.

### 3. PUBLIC QUESTIONS

There were none.

### 4. MINUTES OF THE LAST MEETING

These were signed as a true record.

A member asked whether Plan B had been required, with reference to Item 6. The Licensing Team Leader confirmed that it had not.

### 5. MINUTES OF SUB COMMITTEE MEETINGS

These were signed as a true record.

### 6. SAFEGUARDING - TAXIS AND PRIVATE HIRE

The Chair thanked the officer for an excellent report.

The Licensing Team Leader explained that the report sets out to review objectively taxi safeguarding policies, to make sure that these are watertight and robust from CBC's point of view. He also thanked the Senior Licensing Officer for a comprehensive piece of work, and invited members to take a view

and raise any questions and comments – no formal decision is required at this point. He said that comments from GCC and the police are still to come.

The Senior Licensing Officer talked members through the report, highlighting issues as follows:

- CBC has robust standards and promotes good practice in most respects of licensing;
- public safety has grown in prominence over the years, with high-profile cases demonstrating the connection between taxi drivers engaging in or facilitating criminal activity; parliamentary working groups are looking into this, prior to drafting statutory guidance, to be implemented at some point in the future. CBC is being proactive in reviewing its own practices;
- CBC has a taxi policy, involving robust application, monitoring and enforcement measures, and works closely and collaboratively with other councils; regarding private hire, it is easy and legal for companies to have bases in two different areas and be creative in how drivers are licensed – it is important that standards are raised with all neighbouring councils, and NR3 register, set up on the back of promoting good practice, is now being formalised;
- the report sets out current practices, and considers what actions can be taken to improve safeguarding, with or without changes to Taxi Policy.

During the officer's report, the following points and questions were raised by members:

A member suggested it would be logical to apply the whistle-blowing procedure [Action 13] to planning as well – the officer agreed that this is a sensible idea for any decision-making process. Another member said that in both licensing and planning, it would be interesting to know whether or not officers have an interest that they would have to declare if they were members. The Licensing Team Manager said that CBC has a corporate whistle-blowing procedure in place which may just need to be tweaked slightly. The Chair confirmed that SLT has requested the Committee gives strong consideration to areas of the safeguarding policy which can be included in CBC's corporate policy.

A member asked whether building on current relationships and improving liaison with other Gloucestershire licensing authorities [Action 16] will give rise to GDPR issues. The officer confirmed that councils are well-versed in GDPR and only share data in line with that, and that NR3 formalises what a lot of councils were doing previously. Any sharing of data would have to be supported by policy, legally, and in compliance with GDPR. The Senior Licensing Officer said that CBC uses the national database for revocations, refusals etc, though Stroud and Tewkesbury do not. Once the safeguarding policy is in place, it will be taken to GLOG to look at standardising safeguarding processes and improving data sharing across all of Gloucestershire's councils.

A member agreed that requiring taxi drivers to pay £13 a year to DBS [Action 1] would ensure CBC's ability to check on drivers' police records, though the officer added the caveat that the council would need to request a minimum number of checks each year to maintain its use. He drew attention to the importance of consistency in decision-making through common policy and shared training. A member was concerned that committee decisions aren't always consistent and that the authority of members could be substantially reduced. The officer said that, in his experience, members give fair hearings and make good decisions, taking account of individual drivers and their circumstances, and explaining why if they ever depart from policy. The Licensing Team Leader confirmed that the policy may be strengthened but the delegation will not change – officers recognise the value of members' decision-making.

A member welcomed the suggestion of complaint information on display [Action 3] and CCTV in all licensed vehicles [Action 4], but said it must be consistent across all vehicles, and will have additional costs for drivers and CBC. The officer confirmed that some vehicles already have CCTV, which is very useful in the event of a complaint, and that GLOG require CCTV in all vehicles with school contracts. A member expressed concern that CCTV denies people the fundamental human right to a private life, and would be very uncomfortable about mandating it.

The officer said the actions have been laid out and members are welcome to add any further points. The report will be brought back for further discussion in December.

The Chairman thanked officers and made the following points:

- policy must focus on safeguarding the elderly and vulnerable adults as well as children;
- can CBC look at IOL-accredited courses in safeguarding for members and officers? More training for members would be beneficial, subject to cost;
- management of complaints should be free from direct political influence, and through staff management route;
- liaising with the trade has been very challenging in the past;
- London has run a good safety campaign – 'an unlicensed taxi is just a stranger's car' – which could be used here?;
- complaint information could be included in the fare card without a cabinet decision;
- IoL recommendations on convictions policy and CCTV need more debate.

A member asked about dogs – both guide-dogs and pets. The officer said that drivers are legally required to carry assistance dogs unless they have medical exemption, but not to take a household pet. Another member asked about restraining dogs within taxis; the officer said this is ultimately up to the owner – the advice is that they sit in the rear footwell, but there is no official guidance.

A member returned to the subject of CCTV in taxis, and the issue of privacy – does a taxi count as a private space? Some individuals may not want to be filmed for all sorts of reasons, and CCTV may make it difficult for them to travel by taxi; he asked if there can be any discretion for passengers, and also pointed out that while CCTV for vehicles carrying children should be by default, the film footage needs to be carefully controlled. Officers confirmed that this is a particularly contentious issue, and the subject of national debate; draft strategy guidance proposes a national mandatory requirement for CCTV in all taxis which may become policy though there are objections. It is a complex matter and will be discussed further in the future.

A member expressed confusion that the Committee is not being asked to decide or recommend anything this evening. The Chairman explained that if members are happy with the options for improvement not requiring any changes to taxi policy, they can suggest that the licensing team starts to incorporate these into the service delivery plan; their views are invited on the changes that would require changes to taxi policy and will ultimately be incorporated in CBC corporate policy. The Licensing Team Leader confirmed that no decisions or recommendations are required; members' input is invited, and the amended report will be taken to full licensing committee in December before being taken to cabinet and adopted early in the new year. The report will be in a more complete state in December, but members will still be able to amend it should they wish.

The member suggested that discussion on the conviction policy and CCTV will mean a very long meeting in December. Returning to the matter of CCTV, he asked if passengers should have the right to request it be turned off. The Chairman suggested that, given the challenges and continuing national debate on CCTV, it might be worth focusing on the actions which can be implemented without any policy change, and deciding which action requiring cabinet intervention members want to review. He suggested that Action 2 (conviction policy) and Action 4 (CCTV) should be parked, pending further debate and more information. The officer confirmed that discussions through GLOG will give more idea of any cross-county consensus on a conviction policy – it will be good to get this locally, and agreed if this is in slight divergence from national policy; more will be known in December.

A member suggested an interim report in November, rather than a long, complicated document two days before the meeting. He asked if the report could be circulated further in advance.

A member said it would put people's minds at rest, if CCTV is likely to be mandatory or there will be an option to switch them off for good reason, if the public can be assured that the data on the camera will not be accessible to anyone, including the driver – could a compact and recyclable hard drive be fixed to the car which is handed into the council once a month and only accessed by an official? The officer confirmed that in some areas, only the police or licensing authority have access to the CCTV footage; the Licensing

Team Leader said that, legally speaking, if the council mandates CCTV, it will be the data controller and holder, and would need to think about how to set standards, what kit is used etc.

The Chairman suggested that, as this will require government or cabinet decision to change policy, it need not be part of the paper that comes forward and should be parked. An officer said licensing committee would want full input on Actions 2 and 4; members concurred, and were generally happy with the other actions set out in the report.

### **7. REVIEW OF PREVIOUS DECISIONS**

None.

### **8. ANY OTHER BUSINESS**

The Licensing Team Leader gave verbal updates on a number of policy issues; Members have already had input into some of these, and will have input into others in the future.

#### **i. Outcome of the street trading policy consultation and changes to the policy as a consequence**

Following a Cabinet report and consultation, a new street trading policy will be introduced, with some minor amendments and two major ones:

- The sale of real fur – most people support a ban for street trading on markets etc, though there will be issues concerning identification of real/fake fur, and enforcement. Cabinet will give a steer, though the onus will probably be on the trader, with the Council following up with enforcement action where necessary;
- Single-uses plastic – CBC has made a commitment to look at this, but the issues are complex and further work is needed to formulate a policy.

The new policy is likely to go to Cabinet in October.

#### **ii. Draft evening and night-time economy strategy**

This is on the agenda for Cabinet, and is in the remit of Licensing Committee as the group that steers and implements strategy. It comes on the back of CBC winning an award for its management of the night-time economy. It is not a long document but more input and steer is invited; Members are encouraged to read it and comment.

#### **iii. Progress on A-board policy review**

Members will remember a long discussion about this – including enforcement resource, planning etc – and licensing officers have done a lot of work looking at the options, initially considering a planning approach to be the way forward. This is not straightforward, however, and will need realignment of the planning policy. The current thinking is

that some improvements can be made to the current process – for example, simplifying the enforcement process, looking at more delegations, re-drawing the boundaries to focus more on conservation areas and the town centre and treating those outside with less urgency – though members may not like this approach. It is complicated, and officers are trying to find a practical way through. They will bring the matter back to Licensing Committee in November, as the decision-making body – Members may prefer to stick with the policy and ban.

A member commented that there has never been total consensus about A-board policy and it needs to be streamlined. He feels that applications shouldn't come to Committee if wildly outside policy, but that in exceptional circumstances an applicant should have the right for a Committee decision, or ward members have the right to call them in on a similar basis to Planning Committee. Automatic renewal would also save time, unless new objections have been received. He understands the importance of the town centre, but feels that people do what they like in some areas and are never challenged, despite their A-boards being potential trip hazards – this needs to be taken seriously.

The Licensing Team Leader confirmed that there is special control within conservation areas and a statutory duty to deal with what's happening there; a clearly dangerous obstruction elsewhere should be dealt with, though resource is limited. The matter needs to be thought through, with input from Members as to whether there is an appetite for more control.

A member asked why the three verbal reports could not have been written and circulated a week ago – it is difficult to engage and easy to miss what the officer is saying without any opportunity to read it and research any important issues in advance. The Licensing Team Leader explained that the verbal reports are simply updates for information, and that no decisions are required. The member proposed to request an end to verbal reports – for a committee to be effective, officers should provide everything in writing.

**9. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**

There were none.

**10. DATE OF NEXT MEETING**

4<sup>th</sup> December 2019.

David Willingham  
**Chairman**



## Licensing Sub-Committee - Miscellaneous

**Wednesday, 6th November, 2019**

**6.00 - 7.50 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Dennis Parsons (Vice-Chair), Mike Collins, Diggory Seacome and Angie Boyes (Reserve)
<b>Also in attendance:</b>	Louis Krog, Vikki Fennell and Beverly Thomas (Minutes)

## Minutes

### 1. **APOLOGIES**

Councillor Simon Wheeler.  
Councillor Angie Boyes acted as substitute

### 2. **DECLARATIONS OF INTEREST**

None.

### 3. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 3 July 2019 were approved and signed as a correct record.

### 4. **APPLICATION FOR RENEWAL OF SEXUAL ENTERTAINMENT VENUE LICENCE (19/02708/SEXR)**

The Chair reminded the meeting that this was a quasi-judicial committee and Members would take evidence to the standard of the balance of probabilities. He then reminded Members that the rationale for their decision and any conditions agreed should be reasonable and proportionate. He also reminded Members that the objectors registered to speak tonight were there to clarify their objections and Members would have the opportunity to ask questions of clarification.

#### **Officer introduction**

The Licensing Team Leader introduced the application as set out in the report from Red Apple Associates Ltd for the renewal of the annual sexual entertainment venue (SEV) licence in respect of the premises known as Two Pigs, located at Church Street, Cheltenham. Paragraph 1.2 of the report outlined the dates and times and informed Members that the existing SEV licence was due to expire on 10 January 2020. A copy of the application form was attached at Appendix A, a copy of the premises layout attached at Appendix B, the location map attached at Appendix C and the wider plan of the central shopping area at Appendix D. A copy of the existing licence was attached at Appendix E along with the conditions applicable to the licence.

The Licensing Team Leader informed the Members that in determining the application Members must have due regard to any observations made by the Chief Officer of the Police and any other comments received. He informed them that no comments or objections had been received from the police but there had been 14 objections, including 178 signatories to a petition.

He then drew Members' attention to paragraphs 5.4 and 5.5 of the report with regard to mandatory and discretionary grounds for refusal.

The Licensing Team Leader then explained that when determining an application for a SEV licence, the sub-committee must have regard to the relevant statutory provisions, the council's adopted policy referenced in the report, the relevant guidance issued by the Home Office and any objections or comments made by the Chief of Police and other persons.

The Licensing Team Leader then addressed some of the issues raised in the objections and highlighted to Members that they must be mindful of the council's Public Sector Equality Duty when discharging its licensing function and each application should be considered on its own merit. If Members were minded to deviate from the council policy to permit SEVs they should be clear on reasons. The Committee, once it had considered all the relevant matters, must decide whether to: a) Grant the application as applied for; b) Grant the application subject to any additional terms, conditions and/or restrictions that are either specific to the licence or standard conditions; or c) refuse the application.

### **Questions to the Licensing Team Leader**

In response to Members' questions, the Licensing Team Leader confirmed that:

- No comments had been received from the Police with regard to this application
- During race week the Two Pigs, as a SEV venue, was inspected 1-2 times a day, both announced and unannounced, by both the police and licensing officers. Outside of races the venue was inspected every 6 months for the purposes of alcohol licensing. If there were any issues identified by the police these would be fed back to the licensing team.
- The Police had submitted statistics for crimes recorded. There were no incidents of sexual assault during race week. Outside of race week, between 1 January 2018 and 31 December 2018 there were 6 recorded incidents directly attributable to the Two Pigs.
- Under the Police and Crime Act 2009 sexual entertainment is permitted to take place under a statutory exemption, provided this was not for more than one occasion lasting no longer than a 24 hour period. This could happen up to 11 times a year and the council would not receive notification that it was to take place.
- From a professional point of view the council suffered from the exemption. Refusing the current licensing application would not decrease sexual entertainment in the town as this would still take place under the exemption.
- Any sexual entertainment taking place under the exemption did not involve the police or the council. However a voluntary code of practice through which the council could be informed did exist, but the host was not duty bound and there was no recourse if this did not take place.

- During race week 2019, on each of nights of the racing event, there were three sexual entertainment venues operating in the town, two under the exemption.

There were no questions from the applicant.

### **Applicant's address**

The solicitor for the applicant, Mr Vic Younis and Steve Burrows, Red Apple Associates, were invited to address the committee. The solicitor explained that this application was in line with previous applications. The venue had been a SEV during major racing events since January 2017 and had operated successfully. The police and the licensing team inspected the premises every night and no adverse comments had been received.

He emphasised that SEV operations were lawful under the Police and Crime Act 2009. The mandatory grounds for refusal should be disregarded and in terms of discretionary grounds for refusal, he believed that the objections received were based on moral reasons or an individual's own opinions and therefore not relevant.

The Solicitor highlighted that there was a difference between fear of sexual offences and actual offences taking place and a direct link to the premises. The police gathered evidence but had raised no objections with regard to this application. No sexual assaults or related incidences had been recorded. If there was any evidence available his client would take them seriously. He emphasised that his client actively participated in the Cheltenham Night Safe scheme and Cheltenham had received a purple flag for being a town where people could feel safe in the vibrant evening economy of the town. Any offences that had occurred were not known or there was no evidence to support them so it was unfair and unjust to relate them to this application.

He made the following further comments:

- The Two Pigs had good access to the town with the bowling alley and the Brewery a 5 minute walk
- Door staff picked up and disposed of litter outside the premises
- No alcohol was allowed to be consumed outside the premises
- The statistics presented to the committee by the objectors were unofficial
- There was ample CCTV around the 6 walkways in proximity to the venue
- There was no signage advertising the venue as a SEV and any future signage would only be undertaken with the council's consent
- The premises was located in the designated SEV policy area
- Equality-the safety of staff and customers was paramount, there was no discrimination against any group or background
- The client updated refusal logs which the council were able to view;
- Security officers were professionals of the highest repute
- Security officers manned the courtyard and performers were told that they must be fully clothed when outside

In conclusion, the Solicitor highlighted that the applicant had held an SEV licence since 2017, there had been no comments from the police on the application and the strict conditions of the current licence were respected and adhered to. He believed the GRASAC objections were prejudicial and

subjective to the point of being irrational. The town held a purple flag award and had recently received a special award for well-lit buildings. He referred to a statement on the Police website explaining that reports of sexual violence did not increase with licensed SEV activity.

He wished to emphasise that his client was not responsible for every offence which occurred around the town during raceweek which attracted some 50-60,000 people. He quoted one of the performers who had confirmed in July that the venue was one of the safest places she had worked in and that performers were cared for over and above what could be expected. If the council granted the licence the council would maintain control over the venue, yet if not, no protection could be accorded to either visitors or performers.

His client was keen to take extra measures and he referred to his participation in the Night Safe Scheme and radio contact was maintained with other establishments in town if there was antisocial behaviour.

### **Questions to applicant**

In response to Members' questions, the applicants solicitor confirmed that :

- the refusal log would be made available
- performers had constant access to their cloakroom so could put on additional clothes if they wished to stand in the courtyard
- all performers had the full right to work in the UK and had valid identification
- individuals applied for positions of their own free will. The majority of performers had performed before so a relationship had been built up with them.
- There was an SIA licensed house mother who managed the welfare of the performers and to whom any concerns could be directed. Hot meals were provided to performers and end of night transport in the form of a minibus.
- Refusal for entry would be given for intoxication or use of illegal substances.

### **Question to officer**

The Licensing Team Leader was not aware of any recorded sexual assault incident at the venue since it held its SEV licence in 2017. In addition the Police had not objected to the renewal or applications submitted to date.

### **Objector's address**

#### **1) Maggie Stewart, Alison Cowmeadow, GRASAC**

Ms Stewart explained that GRASAC were unable to mention specific events due to the confidentiality it maintained with its clients, therefore the objection may appear rather vague. Occasionally however there were incidences in Church Road and in the venue itself but it was very difficult to elaborate.

When asked whether Members of the Licensing Committee visited the Two Pigs and how often, the Chair confirmed that Members had all undertaken a site visit to the premises, accompanied by licensing officers, and had talked to performers and doorstaff. They had been given unfettered access to the premises including areas not available to the public. This was to ensure that the facilities met normal standards.

Alison Cowmeadow, Independent Sexual Violence Adviser at GRASAC,

explained that she supported numerous women including rape victims during raceweek. Some incidences were reported to the police and some not, for fear of being recognised, not believed, shamed or blamed with the prospect of conviction. She informed the committee that GRASAC had undertaken an online survey which revealed instances of stranger rape in the town centre by multiple perpetrators, groping, and fear due to prevalent unwanted sexual behaviour and other examples of aggressive behaviour towards women.

Some women quoted that upon reporting such sexual harassment to the police the response was that it constituted men having fun because of raceweek. She also reported that a previous employee of the Two Pigs had informed that she had been told to wear revealing clothing and that it was common to be grabbed and groped. She asked how many more women needed to be harmed before it was acknowledged that this was a problem?

### **Question to objector**

CBC valued the work of GRASAC but the Chair highlighted that the committee needed to take evidence into account which directly linked to the Two Pigs and not just Cheltenham during race week. There was work to be done with the police to make raceweek safer but could any evidence be directly linked to the venue?

In response GRASAC explained that the person currently being supported highlighted that it was quite common for workers at the Two Pigs to be grabbed and groped. In a SEV women were promoted as objects. In addition, GRASAC claimed that 9/10 clients did not report to the police as reporting would bring shame on the person. It was very difficult to come up with hard cases and GRASAC did the best it could to support people and highlighted that 9% of the caseload was male.

It was confirmed that the employee had not reported the case to the management at the Two Pigs.

In light of the low reporting levels one Member suggested that GRASAC could consider working with the police whilst maintaining anonymity. The police could advise on how to proceed as such incidences did constitute crimes.

It was clarified that the survey responses (obtained through face to face contact or online) referred to 4-5 cases of sexual harassment but these incidences were not specified to occur around the Two Pigs area.

### **Objector's address**

#### **2) Christina Ruck**

She explained that SEVs fuelled the sexual attitude towards women in Cheltenham that you could buy women and treat them as objects. To that end the Two Pigs contributed to the sexist culture in the town. She felt that the reaction from the police when instances were reported was why there were no formal objections against this application from them.

### **Questions to objector**

When asked whether there was a link back to the Two Pigs with the examples quoted in the objection, it was confirmed that no locations were specified.

### **Objector's address**

### **3) Richard Coombs, St Mary's Church, Rector of Cheltenham**

Richard Coombs explained that a petition against the application had been signed by members of his congregation. 11,000 people visited the minster each year which was increasing annually. He was encouraged that CBC was making the churchyard more welcoming and open and gave the example of the glazed entrance at Chester walk and the proposal to create a workshop on land at the western end. This would make a positive difference to the town and to those who lived, worked and visited it. His objection related to the limited access to the town centre for a significant number of people who felt vulnerable due to the activities around the Two Pigs. It also related to the buses with sexually explicit images and loudspeakers collecting clients from all over the town and transporting them to the Two Pigs.

The churchyard represented the town centre's most sensitive and historic place and should not be a place where people felt vulnerable inside and outside of the churchyard. He wished to see Cheltenham improve and thrive and be accessible to all without the fear of intimidation.

#### **Questions to objector**

Members agreed strongly that intimidation in the churchyard was unacceptable. In response to a question on the timings of night services, Richard Coombs confirmed that the latest event hosted by the Minster was the Youth Event which finished at 10 pm on a Friday and this was held at St Matthews Church.

Members acknowledged there were 6 entrances to the churchyard and that the church took on a different feel during raceweek. It was asked how many of the issues in the churchyard directly related to the Two Pigs and how much was due to the large influx of people during raceweek which significantly increased the town's population. In response Richard Coombs said he failed to see how the issues did not arise as a result of Two Pigs when a large number of men were coming and going around that area and the churchyard took on a very different feel.

The meeting adjourned from 19:05 – 19:10.

#### **Applicants response to objections**

The Solicitor for the applicant said that no evidence had been put forward to link any offences with the Two Pigs or the current application. The police had confirmed there were no sexual assault offences linked to the venue. In relation to bar staff employed he stipulated that his client gave employees the option not to work race week.

An official survey had not been commissioned and there was only 'hearsay' links to the applicant. The applicant had agreed to have breathalysers and drug test equipment available for both employees and customers.

Any issues with large groups of individuals entering the premises were controlled by fully licensed security staff of the highest repute. He reiterated that during raceweek the venue was inspected on a nightly basis by both police and the licensing team. The licensing conditions imposed on the venue were strict and fully respected by his client and this would continue to be the case.

The solicitor confirmed that the licensee had not been made aware of the incident relating to a member of bar staff. The venue had a house mother on

site for the welfare of the performers and if there were any issues with groups of customers these would be escalated to security. Should any member of staff feel threatened or harassed the policy was to approach the licensee and follow the procedures for ejecting the individuals.

The Chair of the committee urged the licensee who was present in the audience to ensure that all members of staff were aware of the procedures and encourage them to report any instances in the interest of safety so that they could be dealt with appropriately.

It was confirmed that when individuals left the venue they were signposted to the high street or the taxi ranks, rather than the churchyard.

It was noted that a separate condition was on the alcohol licence which required 2 door supervisors.

### **Member Debate**

The following points were raised by Members :

- A 6pm opening time of the SEV was not supported due to the venue's proximity to the children's library which closed at 7.30 pm on a Wednesday and a Friday. In addition at 6pm people were still going about other daily business and it was deemed that the venue would be quiet then. A condition of 8 pm was therefore proposed.
- The refusal log should be taken very seriously and where people were ejected this needed to be correctly recorded with an explanation. There were legitimate objections to the application so it was right that the appropriate measures were in place.
- Whilst Members respected the concerns of GRASAC, it was not able to take moral reasons into account. However, it was suggested that the council raise the issues of approaches made to the police so that they could be taken more seriously and any reports be recorded.
- Members highlighted that March raceweek was extraordinary and the volume of people in the town could be intimidating to some, particularly women, making them feel uncomfortable. They felt that unless the objections could be directly linked to activities at the Two Pigs it was difficult to take any action since this was a perfectly legitimate activity. It was Members' preference to have a licensed SEV in the town which could be conditioned rather than an unlicensed activity which offered no protection to members of the public or performers.
- A Member appreciated the difficulty rape crisis groups faced in gathering evidence but asked that in a future survey it would be useful to establish a pattern where people were coming from.
- A Member requested to see a completed refusal log added to the paperwork submitted to the council with each application in order to focus more closely on the issues by having an SEV at the Two Pigs.
- Members felt that having visited the premises during raceweek the business was well run and the conditions on the licence were adhered to. There was therefore no firm reason to refuse the application as the business was working well within the current conditions.

The Chair considered further the proposal for introducing an 8pm time of opening condition on the basis of the discretionary reasons for refusal as follows- the character of the locality and the use to which other premises in the locality are put. Members supported this.

Members highlighted the following further points:

- The council was there not just to support performers but also customers and referred to condition 25 of the licence which specified the display of the tariff.
- Members highlighted that there were serious criminal penalties for breach of the licence
- It was emphasised that SEV licensing applied to both genders of performer and audience. Under the exemption Cheltenham hosted other SEV activity such as the Dream Boys at the Town Hall.

Members were minded to support the application subject to the aforementioned amendment to the opening time.

A Member highlighted the importance of working with the police to encourage them to be more amenable to take note of issues when brought to their attention as per the objection. This could be done at the start of each race night of the festival at the briefing between the police and officers in terms of reminding the police how to deal with approaches with regard to reports of intimidation. The Licensing Team Leader undertook to raise the issue with the Chief Inspector.

It was noted that an absence of objection did not necessarily constitute support for an application.

The Chair wished to put on record his thanks to GRASAC for their important work in the town. It was felt that more work should be done to increase reporting but unfortunately at this stage the objection was not material to the specifics of the application.

### **Right of Reply of applicant**

The Solicitor stipulated that 6pm had been the start time for this year's festival and the applicant had originally requested 5pm. The reason behind the early start time was that it helped control numbers since there was a risk of queues forming outside to access the premises at 8pm. A 6pm start time had been supported by police at the time.

The Solicitor said that the maintenance of refusal logs were part of the licensing conditions and were available on request. The Licensing Team Leader confirmed that officers had unfettered access to inspect them.

### **Vote (unanimous)**

Grant the application as applied for subject to the amendment to the opening time being set to 8:00 p.m. for every night that the SEV operated.



Finally, the Chair took the opportunity to inform members of the public present that the council was currently reviewing its SEV policy and comments were invited until 6 January 2020.

**5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION**

There were none.

David Willingham  
**Chairman**

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## Licensing Sub Committee-Alcohol and Gambling

Thursday, 7th November, 2019

2.00 - 3.00 pm

Attendees	
<b>Councillors:</b>	Diggory Seacome, Mike Collins (Chair) and Paul McCloskey
<b>Also in attendance:</b>	Sophie McGough, Louis Krog and Sarah Farooqi

### Minutes

**1. ELECTION OF CHAIR**

Councillor Collins was elected as Chair of the meeting.

**2. DECLARATIONS OF INTEREST**

Members highlighted that they knew Jon Walklett, who was speaking on behalf of the objector, as he was an ex Councillor.

2 Members also confirmed that they had visited the site.

**3. THE ALCHEMIST, UNIT 8, THE BREWERY QUARTER, HENRIETTA STREET, CHELTENHAM**

The Licensing Team Leader introduced the report, he explained that an application had been received for a premises licence from The Alchemist Bar & Restaurant Limited in respect of Unit 8, The Brewery Quarter. A copy of the application was included at **Appendix A**.

The applicant had applied for a premises licence for licensable activities on the days and times outlined at section 1.2 of the report. He highlighted that the proposed operating schedule and company policies had also been sent to Members.

He confirmed that no representations had been received from responsible authorities. However, one representation had been received from an interested party and this was included at **Appendix B** of the report.

The Licensing Team Leader reminded Members that any decision made in relation to the application would not set a precedent, as suggested by the objector, as the authority is obligated to determine each application on its merits. Similarly, as per the authority's policy on "Core Hours for Licensable Activities" as outlined at paragraph 5.5 of this report, the application complies with a terminal hour of no later than 03:00 for bars in the town centre.

He reminded Members that they must have regard to all of the representations made and the evidence heard in order to promote the licensing objectives. In determining the application they had the option to:

- Grant the application as requested;

- Modify the conditions attached to the licence; or
- Reject all or part of the application.

The Licensing Team Leader offered the following responses to Members questions:

- The additional information regarding the company policies and proposed operating schedule had been received on 5<sup>th</sup> November and the general rule was that documents are accepted if provided within 48 hours of the meeting.
- He confirmed that the current premises within the Brewery were licenced to trade until the following times:
  - Holywood Bowl – 03:30;
  - Mr Mulligans Golf – 02:30;
  - The Botanist – 02:30;
  - Cosy Club - 01:30; and
  - The food establishments closed around 12:00 – 01:00.

Mr Walklett speaking on behalf of the objector made the following points:

- He thanked the committee for giving him the opportunity to raise the concerns of the original objector.
- He confirmed that he was the Chair of St Pauls Residents Association and also lived in close proximity to the Brewery.
- He explained that 5/6 years ago the Association had sought to address concerns about the increasing student population living and attending university around the campus in St Pauls. Concerns had been raised about the safety of students coming back in the early hours of the morning, particularly during the first term and the disturbance to nearby residents. There had been reports of low level anti-social behaviour, concerning litter and noise disturbances. He explained that St Pauls Residents Association had met with the university liaison committee and made a suggestion to collectively drive groups of students through the Brewery Quarter, both to mitigate safety concerns and reduce disturbance to neighbours. The representation was therefore on behalf of the residents to the West of the Brewery Quarter.
- He stressed that they did not wish to inhibit the growth of the Brewery Quarter but felt that the proposed closing times were too late and that in the interests of promoting the licensing objectives regarding public protection and public safety the hours should be reduced.
- He noted that the majority of businesses located on the High Street end of Brewery Quarter shut on weekdays at 12:00/12:30 - 01:00. They were therefore looking for a compromise between these hours.
- He acknowledged that security at the Brewery Quarter was extremely adequate.

He offered the following responses to Members questions:

- Having lived in close proximity to the Brewery for 6 years he had never witnessed any issues.
- The issues with the first term is that students are very young and aren't familiar with Cheltenham. They are also encouraged to go out in large groups and so often walk down residential streets in groups of 20 or more.

- The university had employed third year students to work with the street watch team to look out for student's safety. No complaints had been received from residents regarding student behaviour and they were therefore happy with the status quo.

Regarding the security arrangements at the Brewery Quarter, the Licensing Team Leader confirmed that the Brewery provides security for public areas and also has CCTV. Individual premises also have door staff.

Rebecca Ingram, Solicitor for the Alchemist and Simon Potts Managing Director of the Alchemist made the following points:

- The Alchemist had been trading since 2011, the flagship store was in Manchester and was the focus of a significant regeneration project in that area. Since its opening the brand had grown and they now occupied a number of sites.
- A number of the Alchemist sites were in close proximity to residential areas and they did not give rise to anti-social behaviour or nuisance. The Alchemist had obtained feedback in terms of the way in which it traded. Similar concerns had been raised with regards to one of its venues but the representative had been appreciative of the Alchemist's considerate approach to addressing these concerns.
- The style of operation was detailed in the pack and highlighted that staff underwent robust training in order to understand the way in which the business operates.
- The Alchemist intended to deliver a unique experience with both a food and drink offer and create an all day haven.
- The sample food and drink menu highlighted the quality of the offering and the typical clientele they attracted. The fit of the premises further demonstrated the calibre of the offering. She highlighted that the premises were predominantly seated and typically 70% of the premises were taken up with table and chairs. She noted that this normally gave rise to less crime and disorder when compared with vertical drinking establishments. The intention for the Cheltenham branch was no different.
- It tended to be a destination venue rather than part of a circuit and the typical dwelling times were much higher than other comparable businesses. The Alchemist generally attracts more mature clientele as a result of the price point.
- Whilst they did not detract students from visiting the premises they were often put off by the prices. She stressed that when students do attend, their behaviour is largely dictated by the environment and that of other customers.
- The Managing Director had met with the objector last week, and it had been clear from that conversation that they had more of a general concern about the behaviour of students across the area rather than the Alchemist specifically.
- She noted that the licensing hours of the other premises within the vicinity were largely in line with that being proposed for the Alchemist and they were exactly the same to that of the Botanist.
- The later opening hours actually resulted in a more gradual dispersal of customers. The peak hours were 21:00-22:00 and after that time the numbers tended to dwindle.

- She noted that the responsible authorities hadn't cited any problems regarding late night noise and that was a great endorsement of the area and carefully selected calibre of businesses. She felt that the Alchemist would fit nicely with the current offer and not cause any additional nuisance.
- With regards to concerns that it would set a precedent, she reasoned that many businesses had similar opening hours and the committee were not bound by any decisions made. Similarly, the hours were appropriate in terms of the context of the Brewery Quarter and the Licensing Policy.
- They had submitted a comprehensive operating schedule outlining conditions regarding CCTV, door supervisors, training of staff, and the availability of waiting staff. They had also signed up to the Cheltenham night safe scheme and had a clear dispersal and challenge 25 policy. Similarly, they always engaged with acoustic consultants when opening a venue.

Miss Ingram and Mr Potts offered the following responses to Members questions:

- They intended to occupy the single unit to the left of the cinema.
- In terms of capacity, they were looking at 180 as a maximum based on the seating arrangements.
- A larger would typically cost £4.50 and cocktails, which formed the main part of their offer, were around £8. They also had no happy hour or drinks deals.
- They are definitely a drink led business, although, 50% of their activity comes from a table environment.
- The number of door staff would be brought in line with the council policy and risk assessments would be completed.
- They did have a children's menu, but did not have a policy for turning out younger children visiting the premises with their family. From experience, they would typically vacate the venue by 19:00/20:00.
- They had only allowed for 4 tables outside that would seat 16 people and they would still have waiting service outside.
- There would be stools around the bar.
- As shown on the floor plan, the door leading to the steps was for access to the cinema side and would only be used as a passage for deliveries.
- They had applied for the times outlined in the report partly because they were the same as other establishments and partly because they fitted with the Brewery. They had 18 venues with a range of opening times. A couple of establishments in London and Manchester had licences until 04:00 although they didn't always trade to those hours. The later times were also more favourable as they allowed for safer dispersal.
- They would always have a Designated Premises Supervisor on site and would employ at least 4 full time managers who were all required to complete an alcohol awareness e-learning course.
- A fire risk assessment would be completed before the site opened which would specify the maximum capacity.

The Licensing Team Leader confirmed that, on race week they tended to only visit premises as far North as the 2 Pigs as after that the establishments were largely food led and the race goers were more concerned with drinking establishments. He saw no reason that the prevalence of the Alchemist would

change that due to the pricing. With regards to crime and disorder, they never had any trouble with the Brewery during race week.

The applicant confirmed that they had an establishment in Chester near the racecourse and generally people would go for breakfast but rarely in the latter part of the day.

The objector raised the point that on a recent trip he and a group of 12 had been refused entry to the Botanist and the Brew House at 12:00am as they were closing. Therefore, despite the fact that they were licenced to that time, it didn't mean they always remained open until then.

The Licensing team Leader reminded the committee that despite the fact the venue may not open until that time, they had to determine the application before them, on the assumption that it would remain open until the hours applied for.

In the final right of reply, Miss Ingram explained that they had applied for the stated hours so they had the option to remain open.

In the debate that followed, Members made the following comments:

- There was no evidence to suggest that the business would encourage anti-social behaviour in the area. If problems did arise in the Brewery Quarter they could bring the application back before the committee for review.
- Members felt it was a well planned application and the Alchemist had demonstrated their success in other venues.
- They did not feel it would change the character and clientele attracted to the area and reasoned that students were unlikely to go there due to the pricing.

### **Vote on whether to grant the application as requested.**

3 in support (unanimous)

0 Against

### **RESOLVED THAT**

**The application be granted.**

### **4. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

**Chairman**

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## Licensing Committee – 4 December 2019

## Local Government (Miscellaneous Provisions) Act 1982

## Revocation of Street Trading Consent

**Mr Ahmed Mohamed (19/00818/STA)**

## Report of the Licensing Team Leader

## 1. Summary and recommendation

- 1.1 On 3 April 2019 the Miscellaneous Licensing Sub-committee approved a street trading consent for Mr Ahmed Mohamed to trade from High Street 7 on Cambray Place.
- 1.2 Mr Mohamed has never taken up trading from the location since the grant of the consent.
- 1.3 Furthermore, Mr Mohamed has failed to keep up to date with his trading fees which remain outstanding. The consent was consequently suspended by the Licensing Team Leader on 6 November 2019.
- 1.4 Licensing officers have made numerous attempts to contact Mr Mohamed. However, he has been non-responsive.
- 1.5 The Licensing Team Leader wrote to Mr Mohamed on 18 November advising him that unless he makes contact with the licensing section by Friday 22 November a report will be submitted to the Licensing Committee recommending revocation of the consent. A copy of correspondence is attached at **Appendix 1**.
- 1.6 **The Committee is recommended to:**
  - 1.6.1 **Revoke the street trading consent issued to Mr Ahmed Mohamed.**
- 1.7 **Implications**

Legal	There is no right of appeal against the revocation of a street trading consent.
-------	---

**Contact officer: One Legal**  
**E-mail: [legalservices@teWKesbury.gov.uk](mailto:legalservices@teWKesbury.gov.uk)**  
**Tel no: 01684 272015**

## 2. Power to revoke

- 2.1 Schedule 4, paragraph 7(10) of the Local Government (Miscellaneous Provisions) Act 1982 gives the authority the power to revoke a consent at any time.
- 2.2 The legislative provisions set out under schedule 4 above merely states that “A street trading consent may be granted for any period not exceeding 12 months **but may be revoked at any time.**”

- 2.3 The legislation is not in any way prescriptivePage 26 grounds for a decision to revoke a consent. It is therefore open to the Licensing Committee to consider the circumstances of this case and decide whether this justifies a revocation.

### 3. Delegation

- 3.1 Part 3C of the authority's constitution delegates the authority to revoke street trading consents to the Licensing Committee.

### 4. Conditions of consent

- 4.1 The council's adopted street trading policy considers the following relevant as to the suitability of a consent holder to hold a consent:

1. there have been no significant complaints or enforcement issues;
2. **all fees have been paid on time; and**
3. there has been no significant change to the retail environment in the vicinity of the trading location.

- 4.2 Whilst this is in the context of renewals, the same fitness principles are relevant.

- 4.3 Furthermore, the consent is issued subject to the following condition:

The Council may revoke or suspend this Consent at any time in the event of:

1. **The breach by the Consent Holder, their servants or agents (included Nominated Assistants) of any of the conditions herein or any supplemental/additional conditions imposed by the Council;** or
2. Work being carried out in, under or over the highway on which the Unit is located; or
3. A change in Council Policy which necessitates termination of this Consent; or
4. Circumstances outside the Council's control which necessitate termination of this Consent forthwith.

---

#### Background Papers

#### Service Records

#### Case Officer

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 262626**

## Louis Krog

---

**From:** Louis Krog  
**Sent:** 18 November 2019 13:30  
**To:** [REDACTED]  
**Subject:** Trading consent  
**Attachments:** Unpaid trading fee; Suspension of trading consent  
**Importance:** High

Mr Mohamed,

Further to my emails attached, I note you have not made contact with the council to resolve the matter of the unpaid fee for your trading consent.

Please be advised that unless I hear from you by Friday this week (22/11), I will be asking the licensing committee to revoke the consent in December. Please do make contact as soon as you can to resolve the matter.

Louis Krog

**Licensing Team Leader & Deputy DEPLO**  
Public Protection  
Cheltenham Borough Council  
Municipal Offices, Promenade, Cheltenham  
External: 01242 262626 Internal: 4177



Stay up to date with licensing in Cheltenham on [Twitter](#).

An advertisement for a Personal Licence Qualification (PLH) training course. The background is a blurred image of a bar with glasses. The text is in white and green boxes. It says: 'NEED A PERSONAL LICENCE QUALIFICATION? We offer a popular one day training course and exam, delivered by experienced licensing officers or e-learning followed by an exam. WWW.CHELTENHAM.GOV.UK/APLH'. In the bottom right corner is the Cheltenham Borough Council logo.

NEED A PERSONAL LICENCE QUALIFICATION?

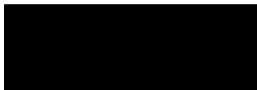
We offer a popular one day training course and exam, delivered by experienced licensing officers or e-learning followed by an exam.

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CHELTENHAM  
BOROUGH COUNCIL



Mr Ahmed Mohamed



ask for: Licensing  
ddi number: 01242 262626  
email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
our ref: 19/00818/STA  
your ref:  
date: 6 November 2019

Dear Sir or Madam,

**Schedule 4(7) Local Government (Miscellaneous Provisions) Act 1982**  
**Suspension of street trading consent when an trading fee is not paid**

**Trader:** Ahmed Mohamed (High Street 7)

**Annual fee due on:** 26/10/2019

**Amount:** £366.28

Our records indicate that the trading fee shown above has not been paid. I attach a copy of the invoice and reminder(s) which have been sent to you as the person liable to pay the fee.

**It is a condition of your consent that payments of the trading fee be paid on time. Whilst the consent is suspended you will not lawfully be able to carry out licensable activities under the authorisations of the trading consent.**

To lift the suspension, you are must pay the outstanding amount in full.

If you believe you have already paid the annual fee please contact us straight away so that we can update our records accordingly.

If you have any queries about this letter or your liability to pay the annual fee, please contact us as soon as possible to discuss it.

Yours faithfully,

Licensing Section

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PUBLIC PROTECTION

CHELTENHAM BOROUGH COUNCIL • P.O. BOX 12 • MUNICIPAL OFFICES • PROMENADE • CHELTENHAM • GLOS GL50 1PP  
TELEPHONE 01242 262626 • FACSIMILE 01242 227131 • DX 7406 CHELTENHAM 1 • [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)

## Louis Krog

---

**From:** Louis Krog  
**Sent:** 05 November 2019 11:44  
**To:** [REDACTED]  
**Subject:** Unpaid trading fee  
**Attachments:** Mr Ahmed Mohamed.pdf  
**Importance:** High

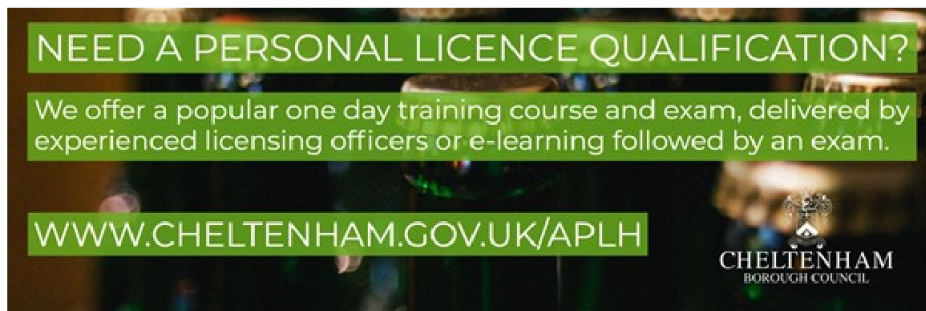
Mr Mohamed,

The attached invoice appears to be unpaid. Can you please confirm as a matter of urgency if this has been paid?

## Louis Krog

**Licensing Team Leader & Deputy DEPLO**  
Public Protection  
Cheltenham Borough Council  
Municipal Offices, Promenade, Cheltenham  
External: 01242 262626 Internal: 4177

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## Cheltenham Borough Council

### Licensing Committee – 4 December 2019

#### Response to Sexual Entertainment Venue Policy review

#### Report of the Licensing Team Leader

#### 1. Executive Summary

- 1.1 The Licensing Committee acts as lead consultee to the Cabinet Member for Development and Safety in all matters relating to the authority's responsibility to discharge its licensing functions.
- 1.2 A consultation on the authority's revised Sexual Entertainment Venue (SEV) policy has been launched and the committee is invited to consider the proposed revisions and make comment on these or any other aspect of the revised policy.
- 1.3 A copy of the revised policy is attached at Appendix 1.

#### 2. Recommendations

##### 2.1 The Licensing Committee is recommended to:

- 2.1.1 Note proposed revisions to the authority's Sexual Entertainment Venue policy; and
- 2.1.2 Consider any comments it may wish to submit in relation to the revisions referred to above; and
- 2.1.3 Make recommendations to the Cabinet Member for Development and Safety in relation to the adoption of the revised Sexual Entertainment Venue policy (subject to 2.1.2).

#### 3. Background

- 3.1 Sexual Entertainment Venues are regulated under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009.
- 3.2 The amended provisions were adopted by Council on the 11th of October 2010 and the authority's current SEV licensing policy was adopted in October 2014.
- 3.3 A review of this policy has been undertaken as outlined in this report and appendices.

#### 4. Statutory Context

- 4.1 Section 27 of the Police and Crime Act 2009 ("2009 Act") amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("1982 Act") to introduce a new type of sex establishment known as a sexual entertainment venue.
- 4.2 Any premises that want to offer "relevant entertainment" can only do so by obtaining a SEV licence.
- 4.3 Relevant entertainment is defined as 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).

- 4.4 Under the 2009 Act, a premises can provide relevant entertainment on an infrequent basis without the need for a SEV licence. Infrequent relevant entertainment is defined as relevant entertainment offered for no longer than 24 hours on no more than 11 occasions a year. Any premises that want to offer relevant entertainment more frequently is required to apply for a SEV licence.

### 5. Current Policy Position

- 5.1 The authority does not take any moral stand in relation to the regulation of sexual entertainment. The current policy recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this authority's role as the Licensing Authority to administer the licensing regime in accordance with the law.
- 5.2 The authority is empowered by schedule 3 paragraph 12(4) of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) to set a limit on the number of licensed SEVs permitted in the relevant locality of which zero can be a number. For information, the current policy defines "relevant locality" as the local ward in which a SEV could be licensed.
- 5.3 The current policy position is set out in paragraph 11 of the policy stating:
- Cheltenham is a relatively small urban borough that is predominantly residential in nature. The Council has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the Council's policy therefore that there is no locality outside of the adopted Central Shopping Area in which it would be appropriate to license a SEV. Accordingly the appropriate number of SEVs for outside of the adopted Central Shopping Area is nil. (paragraph 11.2)
- 5.4 Accordingly, there is currently one licensed SEV which is the Two Pigs on Church Street which is inside the relevant locality in which SEVs are permitted.

### 6. SEVs in Cheltenham

- 6.1 Attached at Appendix 2 is the briefing paper that Members may find helpful in terms of gaining a contextual understanding of SEVs in Cheltenham.
- 6.2 As outlined in the briefing paper, the authority has licensed and regulated SEVs in some form or another for many years. SEVs are particularly prevalent during horse racing events in Cheltenham on a scale that is not comparable with any other area outside of London.
- 6.3 As outlined above (under Statutory Context), sexual entertainment can either be licensed or take place unlicensed as part of infrequent sexual entertainment.
- 6.4 Infrequent sexual entertainment is unlicensed by virtue of a statutory exemption that allows premises to carry on sexual entertainment without a licence if the sexual entertainment is offered for no longer than 24 hours on no more than 11 occasions a year.
- 6.5 Any premises that want to offer relevant entertainment more frequently is required to apply for a SEV licence.
- 6.6 Officer's view is that a borough-wide policy of zero SEVs will not address the concerns raised by people and organisations that are opposed to SEVs; the rationale being that a zero policy for the borough will not achieve a reduction in the amount of sexual entertainment being offered in the town. Instead, the consequence would be that operators will instead rely on the statutory exemption by, instead of operating from one licensed venue, moving between premises around the town but offering the same amount of sexual entertainment.
- 6.7 Under the circumstances described above and recognising that sexual entertainment is a lawful



activity, officers are of the view that it is better for the council to regulate SEV through licensing. Venues operating under the statutory exemption are free of any licensing regulation and control.

- 6.8 It is therefore proposed that the policy position with regards to limiting SEVs in Cheltenham not be changed.

### **7. Proposed policy changes**

- 7.1 For the purpose of easy reference, the draft policy shows tracked changes. These will be removed on the final policy document.
- 7.2 In addition to minor updates to the policy such as removing references to fax, the following policy changes are proposed:
- 7.3 Under paragraph 11.4 (Sensitive Locations), reference to specific sensitive locations and building be removed in favour of a more general description of the types of locations that may be considered sensitive. Specific examples have in the past limited the Licensing Committee's determination of SEVs.
- 7.4 A number of conditions have been updated or amended as shown on the draft revised policy at Appendix 4.
- 7.5 The "relevant locality" where the authority will permit the licensing of SEVs has been revised. The rationale for this is:
- 7.6 Recognition that the adopted Central Shopping Area excludes a number of venues on the Bath Road that can be considered as part of the "wider mix on offer, particularly in the night time economy"; and
- 7.7 The Licensing Committee has already determined that the licensing of SEVs in the area referred to above is appropriate.
- 7.8 It is also proposed that the authority include a waiver provision in the policy. Schedule 3, paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the council to issue waivers. The effect is that it will remove the requirement for a licence under very limited circumstances as outlined under paragraph 3 of the revised policy.

### **8. Equality duties**

- 8.1 An equality and community impact assessment has been undertaken to accompany this policy review. The impact assessment is attached at Appendix 3 of this report.
- 8.2 Notwithstanding the fact that Parliament has made it lawful to operate a sex establishment, there is still an overarching duty on the authority to comply with its Public Sector Equality Duty (PSED) as defined by the Equality Act 2010.
- 8.3 The PSED places a duty on the authority to, in the exercise of their functions, have due regard to the need to:
- 8.3.1 Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act;
- 8.3.2 Advance equality of opportunity between people who share a protected characteristic and those who do not;
- 8.3.3 Foster good relations between people who share a protected characteristic and those who do not;
- 8.4 Consideration of the authority's PSED is particularly relevant to the licensing of sexual

entertainment. Its licensing and regulation often creates a tension between the statutory right to operate such a venue and equality issues relating to discrimination and objectification of primarily women;

- 8.5 The starting point for the authority is the fact that it cannot take any moral stand in relation to SEVs in recognition that Parliament has made it lawful to operate a sex establishment. This starting point however does not mean that the authority is therefore bound by the primary legislation at the expense of other statutory requirements such as the PSED.
- 8.6 Equality issues may be relevant to (not exhaustive):
- 8.6.1 The need to protect performers from harassment and threat;
- 8.6.2 The need to ensure that any protected characteristic group is not more, or less, welcome than another;
- 8.6.3 The need to properly consider the fear of any protected characteristic group using and accessing public spaces, facilities and infrastructure;
- 8.6.4 The need to properly understand the relevant locality and the need to ensure, taking into account the relevant locality, any protected characteristic group's view is taken into account such as those relevant to religion or belief or race;
- 8.6.5 The need to consider the views and experiences of people with disabilities as a protected characteristic group.
- 8.7 Some or all of these equality issues may be addressed through appropriate conditions and robust enforcement. Equally, the licensing process may also be an important tool to achieve the same outcome, for example through licence reviews and policy changes.

---

**Background Papers****Service Records****Case Officer**

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 262626**



## **SEXUAL ENTERTAINMENT VENUE POLICY STATEMENT**

Schedule 3 Local Government (Miscellaneous Provisions Act 1982), as amended by  
Section 27 Policing and Crime Act 2009



Preface

The Borough of Cheltenham

1. Introduction
2. Definitions
3. Making an Application
4. Application for Grant of a Licence
5. Plans
6. Public Notices
7. Variation of a Licence
8. Renewal of a Licence
9. Transfer of a Licence
10. Determination
- 10.1 Mandatory Grounds for Refusal
- 10.2 Discretionary Grounds for Refusal
11. Location of premises
12. Granting a Licence
13. Objections
14. Hearings
15. Appeals
16. Fees
17. Standard Conditions
18. Specific Conditions
19. Duration of Licence
20. Exempt Sexual Entertainment Code of Practice
21. Review

APPENDIX 1 - Standard Conditions for Sexual Entertainment Venues  
APPENDIX 2 - Sexual Entertainment Code of Practice

| This Policy Statement sets out the Council Authority's requirements for premises to be licensed as Sexual Entertainment Venues ("SEVs") within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("1982 Act") as amended by Section 27 of the Policing and Crime Act 2009.

| Adoption of Schedule 3 also allows the Council Authority to set terms and conditions and fees for the grant, variation, renewal and transfer of such licences and the number of premises to be licensed in an area, which may be nil.

| The Council Authority adopted the original provisions of Schedule 3 of the 1982 Act for Sex Cinemas and Sex Shops on 25<sup>th</sup> April 1983 and the new provisions for SEVs under the amendments of the Policing and Crime Act 2009 on 11<sup>th</sup> October 2010.

Consultation was conducted with local residents, existing and future potential holders of SEV licences in the Borough, the statutory responsible authorities under the Licensing Act 2003, and holders of Premises Licenses and Club Premises Certificates under the Licensing Act 2003 in the Borough.

| The Council Authority does not take any moral stand in adopting this policy. The Council Authority recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this Council Authority's role as the Licensing Authority to administer the licensing regime in accordance with the law.

In formulating this policy statement consideration has been given to:

- a) The legal requirements of the 1982 Act (as amended);
- b) The Home Office Sexual Entertainment Venues Guidance for England and Wales;
- c) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
- d) The Regulators Compliance Code; and
- e) The Provisions of Services Regulations 2009 and associated Department for Business, Innovation & Skills guidance.

The legislation may be viewed here:

<http://www.legislation.gov.uk/ukpga/1982/30>

Local Government (Miscellaneous Provisions) Act 1982 Chapter 30

<http://www.legislation.gov.uk/ukpga/2009/26/section/27>

Policing & Crime Act 2009 Part 2 Section 27 – Regulation of lap dancing and other sexual entertainment venues etc

## The Borough of Cheltenham

| The Authority is one of six district councils authorities within Gloucestershire.

### The Area

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

- | The borough, which includes 5 parishes, has a population of approximately ~~115~~117,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

## 1. Introduction

- | 1.1 This policy statement sets out the ~~Council~~Authority's guidance, application procedure, terms and conditions relating to the regulation of SEVs.

- 1.2 This policy statement will guide current licence holders, potential licence holders, the public and the Council Authority when considering applications for SEVs.
- 1.3 This policy statement applies to every type of SEV (as defined in the Act) unless an exemption applies.
- 1.4 Whilst each application will be considered on its individual merits, this policy statement is intended to give prospective applicants an early indication of whether their specific application is likely to be successful and the material facts that will be taken into consideration when determining the application. This policy statement also sets out the expectations of the Council Authority on the applicant when receiving an application.
- 1.5 Applications for grant or variation and opposed applications to renew and/or transfer, will be determined by the Council Authority's Licensing Committee. Unopposed applications to renew and/or transfer will be determined by the relevant director in accordance with the Council Authority's constitution and scheme of delegation.

## 2. Definitions

**The 1982 Act** - This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009.

**SEV** - Means Sexual Entertainment Venue as defined by section 27(3) of the Policing and Crime Act 2009.

**The Policy Statement** - This refers to this policy statement.

**The Relevant Locality** - Refers to the locality in which an application for a SEV licence has been made in respect of a premises, vehicle, vessel or stall.

**The Character of the Relevant Locality** - The character of the Relevant Locality where the premises is situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Council Authority to consider based on local knowledge, factors and circumstances.

**The Council Authority** - Means Cheltenham Borough Council Authority.

**The Premises** - This is the premises, vessel, vehicle or stall which is subject to a SEV licence. The premises will be in possession of all appropriate consents and permissions required to operate.

**Permitted Hours** - These are the hours of activity and operation that have been authorised under the SEV licence.

## 3. Waivers

- 3.1 Schedule 3, paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the Authority to issue waivers. The effect is that it will remove the requirement for a licence.
- 3.2 The power to waive licensing requirements is not a substitute for licensing, and applicants will be expected to demonstrate exceptional circumstances in justifying why the licensing requirement should be waived in their case.
- 3.3 In considering applications for waivers, the Authority's general approach will be:

- 3.3.1 Waivers must be sought in respect of a temporary event.
- 3.3.2 Waivers will not be granted for events that includes relevant entertainment (i.e. striptease, lap-dancing, pole dancing or similar activities) recognising that a statutory exemption already exists for infrequent sexual entertainment.
- 3.3.3 Licensable activities (that would normally have required a licence) must principally be ancillary and kept to an absolute minimum to other activities not licensable under the provisions of the 1982 Act.
- 3.3.4 Waivers will only be considered, on its merits, in exceptional circumstances.
- 3.4 Applications will be considered by the Licensing and Committee, or delegated sub-committee thereof, and reasons shall be given of the decision taken.
- 3.5 A waiver may be for such period as the Authority sees fit. Where the Authority grants an application for a waiver, notice will be given to the applicant stating that it has granted the application. The Authority may at any time give a person who would require a licence, notice that the waiver is to terminate, on such date not less than 28 days from the date on which it gives the notice, or as may be specified in the notice.

## **4. Making an Application**

- 4.1 An application for the grant, variation, renewal or transfer of a SEV licence must be made in writing to the ~~Council~~Authority in accordance with the requirements set out below.
- 4.2 The address at which the ~~Council~~Authority will accept applications and notices is:-
  - a) By post/personal service to Licensing Section, Cheltenham Borough ~~Council~~Authority, Municipal Offices, Promenade, Cheltenham, GL50 9SA;
  - b) By e-mail to [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk);
  - ~~c) By facsimile to 01242 77 4924;~~
  - ~~d) c)~~ On-line via the gov.uk website.
- 4.3 For all enquiries please contact the Licensing team on 01242 ~~77 5200~~262626.

## **5. Application for the Grant of a Licence**

- 5.1 The ~~Council~~Authority may grant to any applicant a licence for the use of premises as a SEV on such terms and conditions as specified by the ~~Council~~Authority.
- 5.2 To apply for the grant of a SEV licence an applicant must:-
  - a) Complete an application form;
  - b) Pay the relevant fee;
  - c) Submit a plan of the premises to which the application relates showing, amongst other things, all means of ingress and egress to and from the premises, parts used in common with any other building, and
  - d) Supply details of how the premises lie in relation to the street. (See below)
  - e) Submit a site plan scale 1:1250;
  - f) Submit drawings showing the front elevation as existing and as proposed to a scale of (1:100) (see below);
  - g) Display a notice on or near the premises (see below);



- h) Advertise the application in a local newspaper no later than 7 days after the date of the application; and
- i) Send a copy of the application and plan to the Chief Officer of Police for the area within 7 days of making the application to the ~~Council~~[Authority](#).

5.3 Application forms are available from [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)

## 6. Plans

6.1 The plan of the building, unless agreed in writing beforehand, must comply with the following:

The plan shall be drawn at a scale of 1:100 and shall show:

- a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- b) The location of points of access to and egress from the premises;
- c) If different from paragraph (1)(b), the location of escape routes from the premises;
- d) In a case where the premises is used for more than one existing activity the area within the premises used for each activity;
- e) Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- f) In a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- g) In a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- h) The dressing room of performers;
- i) The area where performances take place;
- j) Any private screened area where a performance(s) take place;
- k) In a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- l) The location and type of any fire safety and any other safety equipment; and
- m) The location of a kitchen, if any, on the premises.
- n) The area(s) to be licensed must be clearly identified by outlining these areas in red.

6.2 The plan must include a legend through which the matters mentioned are sufficiently illustrated by the use of symbols on the plan.

## 7. Public Notices

7.1 A notice must be displayed at or on the premises to which the application relates for a period of no less than 21 consecutive days beginning with the date of the application, where it can be conveniently read from the exterior of the premises.

7.2 Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

7.3 The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.

7.4 The notice must state:

- a) the details of the application and activities that it is proposed will be carried on or from the premises;
- b) the full name of the applicant;
- c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified;
- d) the date, being 28 days after that on which the application is given to the ~~Council~~authority, by which objections may be made to the ~~council~~authority and that the objections should be made in writing;
- e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£20,000) for which a person is liable on summary conviction for the offence.

7.5 A similar notice must be published in a local newspaper circulating in the area within 7 days of giving the application to the ~~Council~~authority ~~(for example The Gloucestershire Echo)~~.

## 8. Variation of a Licence

- 8.1 The holder of a SEV licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 8.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.
- 8.3 Application forms are available from [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)

## 9. Renewal of a Licence

- 9.1 The holder of a SEV licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.
- 9.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.
- 9.3 The authority will not accept applications for the renewal of a SEV licence more than 3 months in advance of the renewal date.
- 9.4 The ~~Council~~authority will determine renewal applications on individual merits taking into account the facts of the application and any objections received. Opposed applications will be referred to the ~~Council~~authority's licensing committee for determination. The Courts have confirmed that ~~Council~~authoritiess are entitled to look afresh at renewal applications and, accordingly, it is open to the ~~Council~~authority to refuse to renew a licence even where there has been no change in the character of the relevant locality, or in the use to which any premises in the locality are put.

## 10. Transfer of Licence

- 9.1 A person may apply for the transfer of a licence at any time.

- 9.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

## 11. Determination

### 11.1 Mandatory Grounds for Refusal

11.1.1 A licence will not be granted:

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

| 11.1.2 If the ~~Council~~authority finds any of these grounds apply then it must refuse the application.

### 11.2 Discretionary Grounds for Refusal

11.2.1 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 SEVs in the relevant locality at the time the application is made is equal to or exceeds the number which the ~~Council~~authority consider is appropriate for that locality (nil may be an appropriate number for these purposes);
- d) that the grant or renewal of the licence would be inappropriate, having regard:-
  - to the character of the relevant locality; and/or
  - to the use to which any premises in the vicinity are put; and/or
  - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

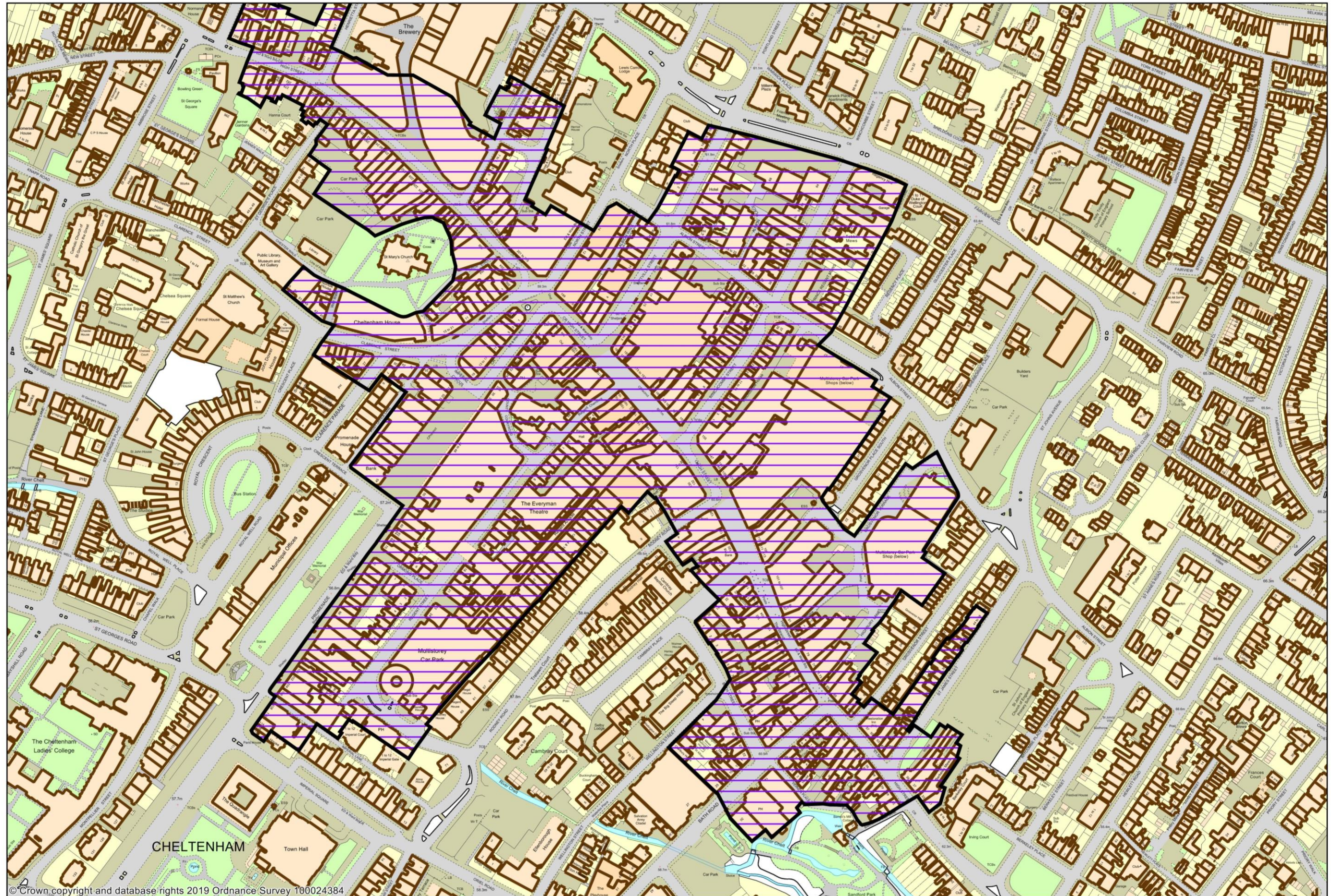
11.2.2 Applications for the transfer of an issued SEV licence may only be refused on grounds (a) and (b) above.

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

## 12. Location of Premises

- 12.1 In deciding the appropriate number of premises to be licensed, the Council authority must consider the character of the relevant locality and what is the appropriate number of SEVs for the relevant locality. The number can be 'nil'.
- 12.2 Cheltenham is a relatively small urban borough that is predominantly residential in nature. The Council authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the Council authority's policy therefore that there is no locality outside of the Designated Permitted Area~~adopted Central Shopping Area~~ in which it would be appropriate to license a SEV. Accordingly the appropriate number of SEVs for outside of the Designated Permitted Area~~adopted Central Shopping Area~~ is nil.
- 12.3 The Council authority recognise however that the Central Shopping Area offers a more unique situation in as much as it has a much wider mix on offer, particularly in the night time economy and it may therefore be appropriate to consider applications for SEVs in the area. The Council authority has therefore resolved that it will not set a limit on the number of permitted SEVs in the Designated Permitted Area~~adopted Central Shopping Area~~ providing those premises are not near properties with sensitive uses or in sensitive locations (see 11.4).





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Fig 1 – Designated Permitted Area (shaded)



## Properties with sensitive uses or in sensitive locations

- 12.4 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put, the ~~Council~~authority shall consider, inter alia, whether the grant of the application would be appropriate, having regard to:
- a) The fact that the premises are sited in a residential area;
  - b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;
  - c) Whether the premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples; and/or
  - d) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.
- 12.5 When determining an application for the grant of a SEV licence, the ~~Council~~authority shall have regard to the policy statement, the relevant guidance issued by the Home Office and provisions set out above, but subject to the overriding principle that each application will be determined on its merits.
- 12.6 Applications in respect of premises must state the full address of the premises.
- 12.7 Applications in respect of a vehicle, vessel or stall must state where it is to be used as a SEV.
- 12.8 The ~~Council~~authority would normally expect that applications for licences for permanent commercial premises would have the appropriate planning consent for the property concerned.

## 13. Granting a Licence

- 13.1 All applications for the grant of a new SEV licence will be referred to the ~~Council~~authority's Licensing Committee for determination.
- 13.2 In determining the application, the Licensing Committee will have regard to this policy statement, any limitation on the number of permitted SEVs, the merits of the application and any objections, if any, that have been made.

## 14. Objections

- 14.1 When considering an application for the grant, renewal, variation or transfer of a SEV licence the ~~Council~~authority will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory consultation period.
- 14.2 Any person can object to an application provided that the objection is relevant to the discretionary grounds for refusal of a licence.
- 14.3 Objections should not be made on moral grounds or values and the ~~Council~~authority will not consider objections that are not relevant to the grounds mentioned above.

- 14.4 Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 14.5 Where the Council authority receives notice of any objection it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council authority shall not without the consent of the person making the objection reveal their name or address to the applicant.
- 14.6 Objections may only be made within the period of 28 days following the date on which the application was made to the Council authority.

## 15. Hearings

- 15.1 Where applications are referred to a Licensing Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.
- 15.2 The hearing provides all parties to the application, including those making objections, the opportunity to air their views openly and those views will be considered by the Licensing Committee.

## 16. Appeals

- 16.1 There is no right of appeal:
- a) Against the mandatory grounds for refusal as detailed in section 11.1.1 (a), (b), (c), (d), and (e) above, unless the applicant can prove that the ground of refusal does not apply to them, and
  - b) Against the grounds as detailed in Section 11.2.1 (c) and (d) which can only be challenged by the applicant by way of judicial review.
- 16.2 All relevant grounds for appeal, other than these detailed at point (a) and (b) above can be made to the Magistrates Court within 21 days from the date on which the person is notified of the decision.

## 17. Fees

- 17.1 The fees set are deemed to be reasonable to cover the cost of administration, enforcement in relation to licensed operators, inspections and any hearings and are not refundable.

## 18. Standard Conditions

- 18.1 The Standard Conditions for Sexual Entertainment Venues are attached at Appendix 1.

## 19. Specific Conditions

- 19.1 Under schedule 3(8) of the 1982 Act the Council authority may grant to an applicant, and from time to time renew, a licence for SEV on such terms and conditions and subject to any restrictions as may be specified. These specific terms and conditions will be tailored for each individual premises and each type of SEV licence.

## 19. Duration of Licence

- 19.1 The Council authority, unless there are exceptional circumstances for doing so, shall grant a licence for the maximum duration of one year at a time, to provide certainty to those persons operating businesses.

## 20. Exempt Sexual Entertainment Code of Practice

- 20.1 The Government has seen fit to exempt infrequent sexual entertainment from requiring a licence. Whilst the Council authority recognises and accepts this, it is also acutely aware that unless it is properly managed there are risks to public protection & safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.

- 20.2 Whilst the Council authority cannot legitimately impose restrictions on infrequent sexual entertainment, it has formulated an Exempt Sexual Entertainment Code of Practice. The intention of the code of practice is to promote responsible and properly managed exempt sexual entertainment. The Council authority expects any premises wishing to offer infrequent sexual entertainment to adhere to the code of practice.

- 20.2 A copy of the code of practice is attached at **Appendix 2** of this policy statement.

## 21. Review

- 21.1 This policy statement will be reviewed at least once every three years.



## **STANDARD CONDITIONS REGARDING SEXUAL ENTERTAINMENT VENUES**

In these conditions:

‘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).

‘Authority’ means Cheltenham Borough Council.

‘Town’ means Cheltenham and refers to it on its entirety.

‘Premises’ means any vessel, vehicle, stall, building, forecourt yard, place of storage or any part of any of these where Relevant Entertainment takes place and is the subject of a licence.

In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

### **General Conditions:**

1. The premises shall only permit adult entertainment between the hours of ..... hours and ..... hours the following morning as determined by the licensing committee.
2. Only activities which have previously been agreed in writing by the Authority shall take place.
3. The agreed activities shall take place only in designated areas approved by the Authority.
4. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.
5. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.

### **Advertisements, solicitation and displays**

6. Neither the licensee nor any employee or other person shall seek to obtain custom by means of solicitation in any form outside or in the vicinity of the premises.
7. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements that indicate or suggest that any form of Relevant Entertainment takes place on the premises. This includes the display of any advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not).
8. Subject to condition 6, any flyers advertising Relevant Entertainment must comply with the relevant code(s) of practice as issued by the Advertising Standards Authority.
9. Flyers must not be handed to persons who look under the age of 21.
10. Flyers must only be distributed after 19.00hrs with the exception of race days and as stipulated on the licence.

11. Examples of the handbills that are in use shall be lodged with the licensing authority prior to their distribution.
12. No flyers or similar promotional material for the premises shall be distributed within the Town.
13. The premises should not advertise by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

### **Premises**

14. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises as shown on the plan, including any change in the permitted signs on display shall not be made except with the prior approval of the Council.
15. A clear Notice shall be displayed inside the entrance to the premises in the following terms:  
  
*16. "Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises."*
17. The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily-clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.
18. When the premises are open for Relevant Entertainment no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 21 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.

### **Management and licensee**

19. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Authority within 14 days of such change.
20. The premises shall maintain a refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Authority.

### **Conditions regarding performers**

21. Relevant Entertainment may only take place in 'designated areas' that are marked on the plan of the premises.
22. The audience must at all times remain fully-clothed.
23. Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.

24. A 'Signing-in' Register shall be kept at the premises that records the time that the performer starts and finishes at the premises. This shall be made available for immediate inspection by a Police Officer or authorised officers of the Authority.
25. During any performance there must be no physical contact between the performer and any member of the viewing public.
26. No performances shall include any sexual act with other performers.
27. No performances shall include any sexual act with objects.
28. There shall be no nudity by performers in public areas of the premises, unless the Authority has agreed in writing that the area may be used for performances of sexual entertainment.
29. At the completion of the Relevant Entertainment the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.
30. Performers are not to solicit, exchange addresses or telephone numbers with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.
31. An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.
32. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.
33. Entertainers or performers not performing must not be in a licensed area in a state of undress.
34. There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices in respect of relevant entertainment, including any charge for the company of any person working at the premises, which shall be placed in such a position that it can at all times be easily and conveniently read by persons inside the premises.
35. Information and literature on the work and services provided by Gloucestershire Rape and Sexual Abuse Centre (or substantially similar organisations) will be made freely available to performers.

### **Briefing**

36. Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

### **Door-Supervisors**

37. Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Relevant Entertainment is taking place.

38. The licence holder, or his nominated deputy who is authorised in writing, or door-supervisors, shall carry out regular monitoring of all areas of the premises to which the public have access, and shall intervene promptly, if necessary, to ensure compliance with licence conditions by customers and performers.
39. Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police if appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.
40. A dedicated SIA-registered door supervisor shall remain at all times in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.
41. When performers leave the premises they are to be escorted to their cars or taxi by a door-supervisor or member of staff.

### **CCTV System**

42. A digital CCTV system shall be installed and be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for 14 days. The CCTV system is to be installed in all areas as recommended by the Police Crime Reduction Officer
43. The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.
44. Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Cheltenham Borough Authority (who will carry identification).
45. No CCTV footage is to be copied, given away or sold (except as required by Police/Authority for investigation/enforcement purposes).
46. Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.
47. Notices shall be displayed informing customers of the presence of CCTV.

1. Operators/licensees will notify the Council Authority & Police Licensing Sections of events where sexual entertainment is due to take place.
2. All sexual entertainment should only take place in one designated area inside the premises, and this shall not be visible from outside the premises.
3. Private performances should only take place inside screened-off private booths. However, the front of these booths must not be covered or obstructed, so that managers and SIA door-supervisors are able to monitor activity inside the booths.
4. A clear notice should be displayed inside the entrance to the designated area stating: "Sexual entertainment takes place on these premises. No persons under 18 shall be admitted."
5. Scantily clad individuals performing in the premises must not exhibit themselves in the entrance to or in the vicinity of the premises and individuals not performing shall not remain in any area in a state of undress.
6. Customers must at all times remain fully-clothed.
7. During any performance there must be no physical contact between the performer and any member of the viewing public/private customer.
8. No performance shall include any sexual act with other performers, customers or viewing public.
9. An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only.
10. A minimum of one SIA registered door supervisor shall be employed in the designated area where sexual entertainment is taking place and they shall intervene promptly to ensure compliance with these rules.
11. The area in which sexual entertainment is to take place shall be covered by CCTV from which footage shall be stored for a minimum of 14 days and produced to Police or Council Authority officers on request.
12. A list of all performers shall be available on the premises for immediate production if requested by Police or Council Authority officers. This list shall contain full names, dates of birth and contact details (address or telephone number).
13. Rules 2, 3, 5, 7, 8, 9 and 10 shall be drawn to the attention of all performers and promoters prior to activity commencing.
- ~~14.~~ Rules 6, 7 and 8 shall be prominently displayed to customers at appropriate locations within the premises.

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# SEV Policy Scrutiny Group – Briefing Paper

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## Background – SEVs in Cheltenham

Cheltenham Borough Council has licensed and regulated sexual entertainment venues (SEVs) in some form or another for many years.

Prior to 2009, sexual entertainment venues were not licensable and were able to operate largely without any council control. The only requirement would have been a premises licence under the Licensing Act 2003 authorising the sale/supply of alcohol and regulated entertainment such as the performance of dance and playing recorded music.

Prior to the legislative change in 2009, only one SEV operated in Cheltenham which was The Blue Room on St Margaret's Road.

In 2009 the Policing and Crime Act 2009 came into force that introduced for the first time a formal licensing requirement for SEVs. The Blue Room ceased trading in 2011 as a SEV.

In 2013 the first SEV licence was granted to the then Diamond Gentleman's Club on Bath Road. That venue, later known as Fantasy, was licensed until 2017 as a SEV.

In 2016 the council issued a SEV licence to the Two Pigs Pub on Church Street. The Two Pigs Pub continues to be licensed as a SEV to date.

The law change in 2009 also created a statutory exemption for infrequent SEVs. The majority of venues in the town that offer sexual entertainment do so under the statutory exemption.

## Legislation

### The need for a licence

SEVs are licensed as sex establishments under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 and schedule 3 of the Policing and Crime Act 2009.

"Sexual entertainment venue" is defined as any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

"Relevant entertainment" means any live performance or 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).

Any premises that offers “relevant entertainment” more frequently than once a month, lasting longer than 24 hours at a time, or on more than eleven occasions per year requires a SEV licence.

Premises that offer infrequent “relevant entertainment” (i.e. no more than once/month, lasting no longer than 24 hours on each of these occasions and no more than 11 occasions/year) can do so without the need for a licence and are free from council regulation and control.

## Determination

The legislation prescribes the circumstances under which the council can refuse or revoke a SEV licence:

### 1. Mandatory grounds:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified under paragraph 17(3)<sup>1</sup>;
- c) to a person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made;
- d) to a body corporate which is not incorporated in the United Kingdom;
- 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.

### 2. Discretionary grounds:

- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) that the number of sex establishments in the relevant locality 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; or
  - ii. to the use to which any premises in the vicinity are put; or
  - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

The council has the power to prescribe conditions. The council’s standard conditions are attached for reference.

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<sup>1</sup> Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the area of the appropriate authority for a period of 12 months beginning with the date of revocation.



## National Guidance

The Government has issued guidance for licensing authorities. The guidance is available online (<https://webarchive.nationalarchives.gov.uk/20100408140149/http://www.crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>)

## Policy

The council has adopted Policing and Crime Act 2009 in so far as it relates to SEVs. The council has also adopted a SEV licensing policy.

The most current version of the SEV policy was adopted in October 2014. [The policy document](#) should be read in conjunction with this briefing note.

It is an overarching principle of the policy that the council does not take any moral stand in relation to the licensing of SEVs. The council recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is this council's role as the licensing authority to administer the licensing regime in accordance with the law.

Councils are able to set a limit on the number of SEVs it will permit in its administrative area – including a zero limit.

Cheltenham Borough Council's SEV policy has set limits on the number of SEV as follows:

- a) The appropriate number of SEVs for outside of the adopted Central Shopping Area is nil.
- b) The Council has resolved that it will not set a limit on the number of permitted SEVs in the adopted Central Shopping Area providing those premises are not near properties with sensitive uses or in sensitive locations.

Properties with sensitive uses or in sensitive locations are defined as:

- a) The fact that the premises are sited in a residential area;
- b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;
- c) Whether the premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples; and/or
- d) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.

## Equality Issues

An issue that has consistently been raised is that of council's Public Sector Equality Duty (PSED) and its interaction with the licensing of SEVs.

The PSED places a statutory duty on the council, in the exercise of its functions, to have due regard to the need to:

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

- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Protected characteristics are:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The licensing and regulation of SEVs does fall within the council's PSED and therefore the council must have regard to the matters listed above when, for example, setting policy and issuing licences.

The licensing and regulation of SEVs often creates a tension between the statutory right to operate such a venue and equality issues relating to discrimination and objectification of primarily women.

The starting point for the council is the fact that it cannot take any moral stand in relation SEVs in recognition that Parliament has made it lawful to operate a sex establishment. This starting point however does not mean that the council is therefore bound by the primary legislation at the expense of other statutory requirements.

When setting policy or determining individual applications, the council must have regard to its PSED taking into account the individual merits of each application.

Equality issues may be relevant to (not exhaustive):

1. The need to protect performers from harassment and threat;
2. The need to ensure that any protected characteristic group is not more, or less, welcome than another;
3. The need to properly consider the fear of any protected characteristic group using and accessing public spaces, facilities and infrastructure;
4. The need to properly understand the relevant locality and the need the need to ensure, taking into account the relevant locality, any protected characteristic group's view is taken into account such as those relevant to religion or belief or race;
5. The need to consider the views and experiences of people with disabilities as a protected characteristic group.

Some or all of these equality issues may be addressed through appropriate conditions and robust enforcement. Equally, the licensing process may also be an important tool to achieve the same outcome, for example, licence reviews and policy changes.

## Waivers

Schedule 3, paragraph 7 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the council to issue waivers. The effect is that it will remove the requirement for a licence.

The legislation allows an applicant to apply to the Council for a waiver either as part of a substantive application or just for a waiver by itself.

The circumstances that may lead the council to grant a request for a waiver is not clear in the legislation and therefore it should come down to local decision making and policy to define and provide guidance. The general principle should be that regulated activity should be minimal or largely ancillary to something else that is cannot be regarded as relevant entertainment. Examples of this could include some nudity in a burlesque show, shops with a small amount of sex toys and objects and/or ad hoc film festivals where erotic films are shown.

Since the legislation is silent on criteria to be applied when applications for a waiver is submitted, it is appropriate for the council's licensing policy to provide further guidance and set criteria to be applied.

Proposed policy on waivers:

*The power to waive licensing requirements is not a substitute for licensing, and applicants will be expected to demonstrate exceptional circumstances in justifying why the licensing requirement should be waived in their case.*

*In considering applications for waivers, the council's general approach will be:*

1. *Waivers must be sought in respect of a temporary events*
2. *Waivers will not be granted for events that includes relevant entertainment (i.e. striptease, lap-dancing, pole dancing or similar activities) recognising that a statutory exemption already exists for infrequent sexual entertainment*
3. *Licensable activities (that would normally have required a licence) must principally be ancillary and kept to an absolute minimum to other activities not licensable under the provisions of the 1982 Act*
4. *Waivers will only be considered, on its merits, in exceptional circumstances*

*Applications will be considered by the Licensing and Committee, or delegated sub-committee thereof, and reasons shall be given of the decision taken.*

*A waiver may be for such period as the Council sees fit. Where the Council grants an application for a waiver, notice will be given to the applicant stating that it has granted the application. The Authority may at any time give a person who would require a licence, notice that the waiver is to terminate, on such date not less than 28 days from the date on which it gives the notice, or as may be specified in the notice.*

**STANDARD CONDITIONS REGARDING SEXUAL ENTERTAINMENT VENUES****General Conditions:**

1. The premises shall only permit adult entertainment between the hours of ..... hours and ..... hours the following morning as determined by the licensing committee.
2. Only activities which have previously been agreed in writing by the Council shall take place.
3. The agreed activities shall take place only in designated areas approved by the Council.
4. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.
5. Any flyers advertising the adult entertainment must not display any photographs or images of the entertainment and any images must be approved by the Advertising Standards Agency and not be handed to persons who look under the age of 21. Any handbills must only be distributed after 19.00hrs with the exception of race days. Examples of the handbills that are in use shall be lodged with the licensing authority prior to their distribution.
6. No flyers or similar promotional material for the premises shall be distributed within the Town.
7. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.
8. A clear Notice shall be displayed inside the entrance to the premises in the following terms:  
"Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises."
9. The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily-clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.
10. When the premises are open for Striptease/Lap/Pole Dancing no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 21 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.
11. The premises shall maintain a Refusals Log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Council.

**Conditions regarding Performers:**

12. Striptease and similar entertainment may only take place in 'designated areas' that are marked on the plan of the premises.

13. The entertainment shall be provided by professional performers only. The audience must at all times remain fully-clothed.
14. Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.
15. A 'Signing-in' Register shall be kept at the premises that records the time that the performer starts and finishes at the premises. This shall be made available for immediate inspection by a Police Officer or authorised Officers of Cheltenham Borough Council (who will carry identification).
16. During any performance there must be no physical contact between the performer and any member of the viewing public.
17. No performances shall include any sexual act with other performers.
18. No performances shall include any sexual act with objects.
19. There shall be no nudity by performers in public areas of the premises, unless the Council has agreed in writing that the area may be used for performances of sexual entertainment.
20. At the completion of the relevant entertainment the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.
21. Performers are not to solicit, exchange addresses or telephone numbers with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.
22. An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.
23. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.
24. Entertainers or performers not performing must not be in a licensed area in a state of undress.
25. There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices in respect of relevant entertainment, including any charge for the company of any person working at the premises, which shall be placed in such a position that it can at all times be easily and conveniently read by persons inside the premises.

**Briefing:**

26. Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

### **Door-Supervisors:**

27. Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Striptease/Lap/Pole-dancing activity is taking place.
28. The licence holder, or his nominated deputy who is authorised in writing, or door-supervisors, shall carry out regular monitoring of all areas of the premises to which the public have access, and shall intervene promptly, if necessary, to ensure compliance with Licence conditions by customers and performers.
29. Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police if appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.
30. A dedicated SIA-registered door supervisor shall remain at all times in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.
31. When performers leave the premises they are to be escorted to their cars or taxi by a door-supervisor or member of staff.

### **CCTV System:**

32. A digital CCTV system shall be installed and be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for 14 days. The CCTV system is to be installed in all areas as recommended by the Police Crime Reduction Officer
33. The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.
34. Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Cheltenham Borough Council (who will carry identification).
35. No CCTV footage is to be copied, given away or sold (except as required by Police/Council for investigation/enforcement purposes).
36. Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.
37. Notices shall be displayed informing customers of the presence of CCTV.

## Community impact assessments – for services, policies and projects

### What is a community impact assessment?

A community impact assessment is an important part of our commitment to delivering better services for our communities. The form will help us find out what impact or consequences our functions, policies, procedures and projects have on our communities, as well as employees and potential employees.

By undertaking an impact assessment, we are able to:

- Take into account the needs, experiences and circumstances of those groups of people who use (or don't / can't use) our services.
- Identify any inequalities people may experience.
- Think about the other ways in which we can deliver our services which will not lead to inequalities.
- Develop better policy-making, procedures and services.

### Background

<b>Name of service / policy / project and date</b>	<b>Licensing</b>
<b>Lead officer</b>	<b>Louis Krog</b>
<b>Other people involved in completing this form</b>	

## Step 1 - About the service / policy / project

<b>What is the aim of the service / policy / project and what outcomes is it contributing to</b>	The council's sexual entertainment policy review is part of the council's normal work to review and update policy. Regular policy reviews are necessary to ensure policy remains effective and up to date as a regulatory tool.
<b>Who are the primary customers of the service / policy / project and how do they / will they benefit</b>	<p>The policy sets out the council approach to the regulation of sexual entertainment in Cheltenham as a whole. To this extent, every resident of the borough is affected to varying degrees. For example, the policy sets out where the council will permit the licensing of sexual entertainment venues and conversely where it will not.</p> <p>This policy also affects operators of sexual entertainment venues (SEV) as primary customers.</p>
<b>How and where is the service / policy / project implemented</b>	The policy will undergo political scrutiny through Cabinet, licensing committee and Council.
<b>What potential barriers might already exist to achieving these outcomes</b>	<p>There are strong opinions on the provisions set out in the policy from both sides of the argument. There is strong opposition to sexual entertainment in Cheltenham and the council's role as licensing authority in this. There is equal recognition that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries.</p> <p>Within this context however, the Council does not take any moral stand in adopting this policy. It is this council's role as the licensing authority to administer the licensing regime in accordance with the law.</p>

## Step 2 – What do you know already about your existing / potential customers

<b>What existing information and data do you have about your existing / potential customers e.g. Statistics, customer feedback, performance information</b>	<p>Residents and business of Cheltenham regularly engage in the licensing process, mostly as objectors.</p> <p>The council has also undertaken a scrutiny session with key stakeholders to gather information and data to support and inform the most recent policy review.</p>
<b>What does it tell you about who uses your service / policy and those that don't?</b>	The conclusion of the review process including the scrutiny session has led the council not to propose any substantial changes to the current policy position. The main objection to sexual entertainment in Cheltenham relates to primary legislation which is outside of the council's control.
<b>What have you learnt about real barriers to your service from any consultation with customers and any stakeholder groups?</b>	See above.



**If not, who do you have plans to consult with about the service / policy / project?**

A more formal consultation will follow and this equality impact assessment will be updated accordingly at the conclusion of the consultation.

### Step 3 - Assessing community impact

How does your service / policy / project impact on different groups in the community?

Group	What are you already doing to benefit this group	What are you doing that might disadvantage this group	What could you do differently to benefit this group	No impact on this group
People from black and minority ethnic groups				No direct or specific impact on this group.
People who are male or female	The council's policy is non-discriminatory. It does not restrict itself to specific gender or orientation.	From consultation, the authority is aware that females in particular feel disadvantaged by the sexual entertainment and licensing of SEVs.  This is manifested in both a general sense of feeling objectified and more specifically through feeling intimidated and unwelcome in the vicinity of licensed SEVs.	From experience of licensing SEVs since 2004 (when they were first formally regulated), there is confidence that the authority's policy is robust in addressing any disadvantage that may be caused to this group.  A number of policy conditions have been tightened up to address some concerns raised through informal consultation including those relating to behaviour and duties on door and promotional staff and promotional activity in the vicinity of licensed SEVs.	Page 66
People who are transitioning from one gender to another				
Older people / children and young people	Licensing policy gives particular attention and consideration to properties with sensitive	Exposure to sexual entertainment is inappropriate particularly for children and young	From experience of licensing SEVs since 2004 (when they were first formally regulated), there	

	<p>uses or in sensitive locations including</p> <ul style="list-style-type: none"> <li>a) The fact that the premises are sited in a residential area;</li> <li>b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;</li> <li>c) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.</li> </ul> <p>The licensing policy also does not permit the licensing of SEVs in or in the vicinity of residential areas.</p>	<p>people. Whilst there are safeguards in place, children and young people may find themselves in the vicinity of licensed SEVs.</p> <p>Older people may feel intimidated and vulnerable around or in the vicinity of licensed SEVs.</p>	<p>is confidence that the authority's policy is robust in addressing any disadvantage that may be caused to this group. This is backed up by data.</p> <p>A number of policy conditions have been tightened up to address some concerns raised through consultation including those relating to the restriction on leafleting, promotional activity in the vicinity of licensed SEVs and review of the "relevant locality".</p>	
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	A number of the council's standard licensing conditions address the potential exposure to sexual entertainment of this group including minimum age requirements, public notices, opening times and requirements relating to the appearance of SEV venues.			
<b>People with disabilities and mental health challenges</b>				No direct or specific impact on this group.
<b>People who have a particular religion or belief</b>	<p>Licensing policy gives particular attention and consideration to properties with sensitive uses or in sensitive locations including:</p> <p>a) Whether the premises are sited near properties which are sensitive for religious purposes.</p>	The authority may (and have) granted licences for SEVs in the vicinity of properties which are sensitive for religious purposes.	<p>Each application is referred to the authority's licensing committee who will take into consideration the full scope of issues before making decisions particularly in cases where the grant of the licence is contrary to policy.</p> <p>This includes full consideration of the opposing views and any mitigation.</p> <p>Full reasons are given for any decision and this is subject to legal challenge.</p>	
<b>People who are attracted to their own sex, the opposite sex or to both sexes.</b>				No direct or specific impact on this group.

<b>People who are married or in a Civil Partnership</b>				No direct or specific impact on this group.
<b>People who are pregnant or who are on maternity leave</b>				No direct or specific impact on this group.
<b>Other groups or communities – Performers</b>	The council's licensing policy, standard conditions and scrutiny of licence holders directly relates to the wellbeing and safeguarding of performers.	<p>There is an inherent risk for performers given the environment they operate in.</p> <p>This is not as a direct cause of anything the authority is responsible for but is within the authority's power to regulate.</p>	From experience of licensing SEVs since 2004 (when they were first formally regulated), there is confidence that the authority's policy is robust in addressing any disadvantage that may be caused to this group. This is backed up by data, for example, from Gloucestershire Constabulary on any reported crime, disorder and welfare.	Page 69

## Step 4 - what are the differences

<b>Are any groups affected in different ways to others as a result of the service / policy / project?</b>	Yes – see above (Assessing community impact)
<b>Does your service / policy / project either directly or indirectly discriminate?</b>	No for the reasons set out above (Assessing community impact)
<b>If yes, what can be done to improve this?</b>	N/A
<b>Are there any other ways in which the service / project can help support priority communities in Cheltenham?</b>	Yes – see above (Assessing community impact > What could you do differently to benefit this group)

## Step 5 – taking things forward

<b>What are the key actions to be carried out and how will they be resourced and monitored?</b>	<p>Formal consultation will follow and feedback will be taken into account prior to any decision on the authority's policy moving forward.</p> <p>No additional resource requirements have been identified.</p> <p>Performance and scrutiny of this policy will be undertaken through the authority's adopted processes and accountability in terms of decision making by officers and the Licensing Committee.</p>
<b>Who will play a role in the decision-making process?</b>	Cabinet, Council, Licensing Committee and licensing officers (in accordance with delegation under the constitution).
<b>What are your / the project's learning and development needs?</b>	None identified.
<b>How will you capture these actions in your service / project planning?</b>	N/A

## Cheltenham Borough Council

### Licensing Committee – 4<sup>th</sup> December 2019

#### Safeguarding – Taxis and Private Hire

#### Report of the Licensing Team Leader

#### **EXECUTIVE SUMMARY AND RECOMMENDATION**

The council regulates the activities of the hackney and private hire trades through the licensing of hackney carriage vehicles and driver and private hire vehicle, drivers and operators.

This report follows on from the September Licensing Committee, where the draft Statutory Guidance for the Taxi and Private Hire industry (entitled 'Taxi and Private Hire Vehicle Licensing: Protecting Users' (the Guidance') was discussed.

There is still no certainty at this point from the Department for Transport in implementing the Guidance. However, it is felt necessary to continue to move forward on these improvements and update Members.

Members are asked to consider the improvements to date and the direction of travel on this work, in respect of the work being done by Gloucestershire County Council (GCC).

#### **INTRODUCTION**

The draft Guidance highlighted a number of key areas, where improvement nationally is required to address widespread concerns stemming from cases relating to CSE, where the taxi and private hire trades were involved:-

- On application or on renewal robust measures to ensure that drivers are fit and proper.
- Comprehensive policies and procedures to act quickly and effectively regarding concerns about drivers involved in abuse or exploitation of children.
- A requirement to ensure the continued good behaviour of drivers once licensed.

The DfT then went further by stressing the need for:-

- High common standards,
- Increased sharing of information and effective use of enforcement powers.

The September report went into great deal about how Cheltenham Borough Council (CBC) may respond to the issues raised. It put forward a large number of recommended actions to improve the regulation of the taxi and private hire industries, and better promote public safety.

However, it should be noted there is a similar piece of work being driven by GCC that seems to have some common goals to those laid out for the September meeting. This work is being carried out by the Taxi Licensing Task Group, and a supporting document for their remit is attached at ANNEX 1.

It is clear that certain elements of this work could be best served through an approach at county council level. This because some of those areas could be the most complicated and involved, it may take time to get consensus and agreement to implement change.

Therefore, it is suggested that CBC should continue with some aspects of this work, provided there is not likely to be any conflict with the work of the Taxi Licensing Task Group. The original Action numbers from the September report are used below to cross reference easily with this report.

### **LEVEL 1 IMPROVEMENTS**

These are improvements to the Licensing Service that could be delivered quickly and without changes to Taxi Policy

#### **ACTION 1**

It is considered appropriate to adopt a procedure in respect of allegations involving children and adults at risk. A draft process was considered in September and was based on the process followed by many Safeguarding Children Boards, it had been amended to make it more specific to the needs of CBC Licensing. It needs discussion with the Local Authority Designated Officer (LADO) with GCC and the Police locally to ensure it is fit for purpose in our area. It must also sit properly with internal safeguarding policies/ processes at CBC.

*This action requires further work before approval.*

#### **ACTION 2**

Recent communication with other local authorities has shown a keen appetite for creating a 'flexible warranting' scheme in order to carry out more effective monitoring and enforcement of 'out of town' drivers and vehicles.

This would mean CBC would have the authority from other councils to deal with their licence holders whilst working in Cheltenham. It would mean that other councils would need to authorise our staff to act on their behalf in dealing with their licence holders.



Aside from giving CBC power to monitor and engage with those 'out of town' licence holders, it could also open up opportunities for joint enforcement exercises across Gloucestershire, if the authorisations are approved through reciprocal arrangements. It could also open up opportunities for neighbouring authorities to assist CBC on exercises around large racecourse events, particularly the Festival.

*This work will be moved forward through GLOG or the GCC work ongoing due to the more complex nature of it.*

### **ACTION 3**

The Safeguarding training has been improved and a new version has been piloted for 2 months. This package will be completed during December and shared with Members and other local authorities.

### **ACTION 4**

A training session for councillors was organised recently and well attended. However, there should be regular and scheduled opportunities to refresh knowledge, share experiences and develop Councillor's skills for licensing.

*A draft schedule will be drawn up between the Legal Team, Licensing and Chairs/ Vice Chairs and circulated by the end of January 2020.*

### **ACTION 5**

In the case of the most serious complaints about the behaviour of licence holders, a senior manager may be requested to carry out a review of the handling of the complaint. This decision will be made by the Team Leader Licensing and Chair of Licensing Committee. The review would look at actions by CBC staff and any other public bodies concerned.

This could provide oversight of the handling of such investigations and allow a comprehensive review to be carried out. The emphasis of such reviews will be to improve the response to such issues and learn from cases.

*This action is to be discussed with senior managers.*

### **ACTION 6**

With immediate effect, CBC Licensing will ensure a clear separation of responsibility in respect of complaints about a licence holder's alleged behaviour and any subsequent decision making about their fitness to hold a licence. That means that where an officer has taken part in an investigation of a complaint, that same officer will not take part in any decision making process related to the fitness and propriety of that driver, aside from providing a witness statement and/ or giving evidence in accord with that statement to the committee or subsequently at court.

## **ACTION 7**

Officers will produce a written policy/ procedure for immediate suspensions or revocations by officers/ managers at CBC, where relevant issues arise. Due to the fundamental importance such a document, it will require approval by the Members.

*Work has been started on this document, but it is taking time to complete due to its importance in the decision making process, and the likelihood of being open to legal challenge.*

## **ACTION 8**

CBC Licensing does not have a legal obligation to refer an individual for barring to the Disclosure and Barring Service (DBS) under the Safeguarding Vulnerable Groups Act 2006 (the 2006 Act). There is a suggestion from the DBS that they will investigate referrals that are made to them outside of the scope of the statutory referral process, but they advise that the body doing so must do so in accord with all relevant data protection and employment law.

However, there is a power to refer and a duty to provide information if a proper request is made by the DBS.

Given the often complex nature of such cases, it is felt that the primary consideration should be the harm test, under the 2006 Act, namely that the person may:-

- (a) Harm a child or vulnerable adult,
- (b) Cause a child or vulnerable adult to be harmed,
- (c) Put a child or vulnerable adult at risk of harm,
- (d) Attempt to harm a child or vulnerable adult, or
- (e) Incite another to harm a child or vulnerable adult.

If the harm test is satisfied in relation to a written complaint about a taxi/ private hire driver then Licensing will consider the following:-

- Is there an organisation involved in responding to a complaint that has a duty to refer? If that is the case, it seems appropriate to ensure that body is aware of all relevant information about the complaint held by Licensing. This ensures an appropriate response by that organisation in terms of its duty.
- If that is not the case, then Licensing will consider whether the legal tests are satisfied in order to use its power to refer an individual for barring.
- If Licensing is subject to a request for information from the DBS in relation to a potential barring decision, it will consider whether it is appropriate and legal to do so.

In all such cases, the decision making process and relevant considerations will be recorded.

## **ACTION 9**

With immediate effect, officers will carry out quarterly reviews of all enforcement work carried out. The purpose of doing so will be to improve ways of working and the Licensing Service:-

1. Looking for emerging trends in non – compliance or patterns of adverse behaviour in licence holders.
2. Learning from the handling of those cases.
3. Seeking ways to be more proactive in engaging with the trade and in monitoring/ enforcement exercises.
4. Sharing best practice and learning from legal cases elsewhere.

These reviews will be recorded, subject to further discussion and findings will be publicised through Gloucestershire Licensing Officers Group (GLOG), with relevant stakeholders and with licence holders where appropriate.

## **ACTION 10**

Social media is a strong tool and is used to communicate with licence holders and the public more effectively. There could be more extensive use of the Licensing twitter feed in a targeted manner to propagate best practice, share relevant information, publicise the team's response to complaints and decision making at committee and improve the working relationship with the trade.

*Work is required to move this action forward.*

## **ACTION 11**

To refresh and re – establish the liaison arrangements with the trade through the Liaison Group that already exists. The intention being to:-

1. Develop effective arrangements to consult with the trade when needed.
2. Provide a means for the trade to flag up their own concerns that affect their workplace.
3. Propagate best practice.

*To this end, all licence holders will be contacted to ascertain their views on the following:-*

1. *What framework do they believe will best support communication and consultation between the council and licence holders?*
2. *Do they believe that hackney carriage and private hire trades should be represented in one body or separately?*
3. *How often do they believe the group(s) should meet?*
4. *Are they willing to take part in such a process?*

*The feedback will be discussed and a meeting date will be set in early 2020 to reinvigorate the process.*

### **ACTION 12**

The Council will publish enhanced information on its website providing safety advice to prospective customers regarding the taxi and private hire trades.

*A draft guidance sheet is attached at ANNEX 2. This guidance will be completed and posted online.*

### **ACTION 13**

Licensing staff have been specifically briefed about 'Whistleblowing' i.e. they are briefed on the route they can take to flag up concerns with management about decision making in respect of driver's licences (not on council Policy but in respect of concerns about officers individual decisions where concerns have arisen) and that they are provided with a named manager who would be responsible for investigating any concerns.

It should be stressed that there has been no evidence of such problems at CBC. However, there have been genuine concerns about the granting of licences in some other council areas.

### **ACTION 14**

Further consideration is required whether there is the need for Operators to maintain a recruitment policy for employing ex – offenders or at least signpost them to appropriate advice. This could help employers to recruit more effectively and avoid wasting time with potential recruits that might be unsuitable.

### **ACTION 15**

To liaise with Gloucestershire Constabulary and other Gloucestershire Licensing Authorities to seek the establishment of a Single Point of Contact (SPOC) within the Police force locally. This officer could act as a champion for issues related to taxi and private hire licensing and act as the key liaison officer for Licensing Authorities.

*This work is ongoing and the GCC work may best achieve this outcome.*

### **ACTION 16**

Improve liaison with other Gloucestershire Licensing Authorities:-

- Share policy and procedure to enable use of NR3 by all,
- Improve sharing arrangements by Licensing Authorities of all suspension decisions across Gloucestershire Licensing Officers Group (GLOG). There is an

existing protocol including revocations and refusals, but this needs review and has been superceded by the NR3 to a large extent.

- Formalise sharing of appropriate data in relation to County Council investigations in relation to persons transporting children or adults at risk.

*This work is ongoing and the GCC work may best achieve this outcome.*

## **LEVEL 2 IMPROVEMENTS**

Changes where Taxi Policy requires amending prior to implementing

### **ACTION 1**

CBC should consider mandating the use of the Update Service from the DBS on application, renewal and maintained during the licence period.

*A review of the licensed driver application process, ongoing checks during the currency of a licence and renewal process should be carried out. Changes to those processes may require change to taxi policy and so may require consultation to be carried out. It makes sense to look at those processes in their entirety and not simply consider the use of the Update Service in isolation.*

### **ACTION 2**

A key tool in determining the fitness and propriety of drivers is the conviction policy of the Licensing Authority. Work has been done nationally by the IoL and DFT to produce consistency in this area. Although there are some inconsistencies in content where councils do have such policies, there is a marked contrast in how consistently those policies are considered.

*Due to the slight differences in the policies and the variations in applying them, it seems appropriate to await the final outcome of the national discussions in this area. Ideally, there will be a national standard to bring genuine consistency.*

### **ACTION 3**

Conditions would be required for all licensed vehicles to display 'complaint information' i.e. a notice informing the public how to complain about their journey.

*However, in the meantime officers will review information on the CBC website to ensure it is clear and easy to understand how to make a complaint to Licensing Team about concerns. This work will be completed by the end of 2019. This will include information on how 'out of town vehicles' can work legally in Cheltenham and how to complain where problems arise with this vehicles.*

## **ACTION 4**

The issue of mandating the provision of CCTV cameras in vehicles was discussed at the September meeting. Currently, there is no mandatory requirement to maintain such systems in any licensed vehicle in Cheltenham. GCC are mandating use of CCTV systems in licensed vehicles used on school contracts, and there has been little resistance to that requirement.

However, many licensed vehicles do maintain such systems of their own volition with no control in place over their systems, where there is no accurate audit of the systems in use and where those having the systems have little idea of their legal responsibilities in respect of the data they are collecting.

There is inconsistency across some councils in how they view their legal responsibilities in mandating CCTV and it is an issue that is likely to be referred to in the Guidance.

The most sensible approach seems to be to provide considerably more advice and signposting to licence holders, and set specification criteria for CCTV equipment and give clear direction on the use of systems. This may provide a balanced and effective approach to the issue in the local context for Cheltenham, until the council takes a decision on whether to mandate use of CCTV.

## **NEXT STEPS**

Licensing Committee is asked to feedback on the actions laid out above, as it is clearer now that some work is best carried out the GCC group given the level of collaboration that is required to raise some standards consistently across neighbouring council areas.

Where required, permission will be sought from the lead Cabinet Member to move forward remaining actions.

Where necessary, consultation will be carried out, and Licensing Committee would play a full role in that process.

Following the consultation exercise and subject to any responses received, Cabinet will receive a further report with a recommendation to amend the existing policy to implement those improvements.

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## **Background Papers**

### **Report Author**

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**ANNEX 1**

<b>SCRUTINY REVIEW – ONE PAGE STRATEGY</b>	
Broad topic area	Economy and communities
Specific topic area	Taxi and PHV licensing
Ambitions for the review	<p>To explore the economic benefits and make recommendations in respect of adopting a common set of standards, sanctions, fees and guidance for taxi and private hire vehicle licensing for all local authorities in Gloucestershire. This will consider:</p> <ul style="list-style-type: none"> <li>• the National Revocations and Refusals Register</li> <li>• the fit and proper persons test</li> <li>• environmental concerns, including air quality</li> <li>• adaptations for people with disabilities</li> <li>• the ongoing government review and LGA best practise</li> <li>• app based taxi services</li> <li>• the role of taxis and PHVs in rural communities</li> <li>• school transport</li> <li>• training and how training is shared</li> <li>• safeguarding and vulnerable users</li> <li>• the economic benefits to be gained by a common partnership approach between District Licensing Authorities (DLAs)</li> </ul>
How do we perform at the moment?	There is currently no joined up approach to licensing.
Who and how should we consult?	<ul style="list-style-type: none"> <li>• Cabinet members in county and districts</li> <li>• Economic Growth Scrutiny Committee</li> <li>• Economic Growth Joint Committee</li> <li>• Taxi and PHV operators</li> <li>• Taxi and PHV users, including vulnerable users</li> <li>• GCC Integrated Transport Unit</li> <li>• District Licencing Chairs</li> <li>• District and county council officers, including the Gloucestershire Licensing Officers Group</li> <li>• Safeguarding leads</li> <li>• Gloucestershire Police</li> </ul> <p>A series of meetings followed by further consultations.</p>
Background information	<ul style="list-style-type: none"> <li>• LGA Taxi and PHV licensing Councillors' handbook</li> <li>• Taxi and Private Hire Vehicle Licensing Task and Finish Group report and government response</li> <li>• DLA policies relating to Taxi and PHV licensing</li> </ul>
Support	Maria Arthurs-Hartnett, Democratic Services



	Sophie Benfield, Democratic Services Jo Savell, Communities and Infrastructure
How long will it take?	6 months. Aim to report back at the 18 <sup>th</sup> March 2020 meeting of the Economic Growth Joint Committee.
Outcomes	Recommendations on a common set of standards, sanctions, fees and guidance for taxi and private hire vehicle licensing for Gloucestershire for consideration by the Economic Growth Joint Committee and the District Licensing Authorities.

**Safety Advice for Passengers**

**When Using Taxis and Private Hire Vehicles - Draft**

Everyone can take some simple steps to enhance their experience using these vehicles, which for simplicity, we will call 'taxis'. The vast majority of licensed taxi drivers provide a good service, but a small number may take advantage of their position. These steps can help you get home safely and avoid being ripped off.

1. Take a licensed vehicle. Do not use a vehicle without a licence plate on the back of it. We carry out checks on licensed vehicles to protect you.
2. Make sure the driver is licensed. If the driver cannot show you his ID card, do not get in the vehicle. We carry out checks on licensed drivers to protect you.
3. If you book a car, ensure that you know who is picking you up and what vehicle they are driving. The company may not know this information, when you make the booking but should be able to confirm this information prior to picking you up.
4. Never take a private hire vehicle without a pre – booking. The insurance is likely to be invalid and the driver is breaking the law.
5. Think ahead and plan your journey home. You must take responsibility for your own safety.
6. If the vehicle has a taximeter make sure it is turned on when you start the journey. Ensure you have an idea about how much the fare will cost, to ensure you can get home. Ask to see the fares card if you have concerns about the fare.

If you take a taxi and wish to complain, please contact the council that has licensed the vehicle and driver. The Licensing Team at Cheltenham Borough Council will investigate complaints against our drivers and vehicle owners.

We do not tolerate:-

Discrimination of any kind,

Inappropriate behaviour or language from drivers,

Overcharging,

Racist comments or behaviour,

Sexism.

Contact us at [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk) or on 01242 264163

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## Cheltenham Borough Council

### Licensing Committee – 4 December 2019

#### Nomination of ENTE champion for Cheltenham

#### Report of the Licensing Team Leader

#### 1. Executive Summary

- 1.1 The authority has adopted a strategy for the management of Cheltenham's evening and night-time economy (ENTE), a copy of which is attached at Appendix 1.
- 1.2 The adopted strategy sets out an action to "appoint an ENTE champion for Cheltenham with sufficient political influence to effectively represent the ENTE."
- 1.3 This report seeks a nomination from the Licensing Committee for a Member of the committee to be appointed as the ENTE champion.

#### 2. Recommendations

- 2.1 **The Licensing Committee is recommended to:**
  - 2.1.1 Nominate and appoint a Member of the committee to be appointed as ENTE champion.

#### 3. A strategy for the management of Cheltenham's evening and night-time economy

- 3.1 Cheltenham has an award winning night-time economy. As a result of work and investment by the authority and its partners, Cheltenham has successfully developed and maintained a thriving evening and night-time economy (ENTE).
- 3.2 It has however been recognised that Cheltenham's ENTE lacked a clear strategic and longer term plan to build on the success already achieved. To address this, Cabinet approved an ENTE strategy in September 2019.
- 3.3 The strategy's vision for Cheltenham is for the evening and night-time economy to *"...be a place that is accessible and appealing to every sector of the population, catering for all ages, interests and income groups and above all it should be safe."*
- 3.4 To this end, the strategy sets out a number of ambitions for Cheltenham's ENTE. These are:
  - 3.4.1 Safe: a safe night out for all
  - 3.4.2 Well managed: an ENTE that works for everyone
  - 3.4.3 Sustainable: an evening and night-time economy that will last
  - 3.4.4 Accessible & inclusive: an ENTE for all to enjoy
  - 3.4.5 Data: an evening and night-time economy we understand
- 3.5 Clear and specific actions in the strategy set out the work the council and its partners will undertake

to meet these ambitions.

- 3.6 An action set out in the ENTE strategy is for the authority to appoint an ENTE champion for Cheltenham with sufficient political influence to effectively represent the ENTE.

#### **4. The role**

- 4.1 The specific role and responsibilities of the appointed ENTE champion will be agreed with the ENTE multi-agency governance group but broadly speaking it is envisaged that the champion will:
- 4.1.1 Champion Cheltenham's ENTE where opportunities exists;
  - 4.1.2 Be a leader in and for Cheltenham's ENTE;
  - 4.1.3 Support the development and implementation of the ENTE strategy and the wider ENTE in Cheltenham;
  - 4.1.4 Attend meetings where necessary such as, but not limited to, ENTE multi-agency governance (sub)groups and Purple Flag meetings.
  - 4.1.5 Develop and maintain a good understanding of Cheltenham's ENTE;
  - 4.1.6 To be the "face" of Cheltenham's ENTE and be the first point of contact for, and in, the media, marketing and other promotional activities.

#### **5. Conflict of interest**

- 5.1 Any Member of the committee appointed to the role of ENTE champion must be mindful of the need to keep a clear separation between this role and the role of decision maker on the committee.
- 5.2 It will be important for the appointed ENTE champion to, at all times, ensure their decision making on the committee remains impartial and in good faith and must:
- 5.2.1 Be made on the individual merits of a case;
  - 5.2.2 Have regard to all relevant national and local guidance;
  - 5.2.3 Be made by the body that receives all the relevant information and evidence;
  - 5.2.4 Relate to the issue or question placed before the committee;
  - 5.2.5 Be based only on consideration of relevant and material matters;
  - 5.2.6 Be proportionate, rational and reasoned; and
  - 5.2.7 Be made in a way that engenders public confidence.
- 5.3 The appointed ENTE champion should also consider making a declaration of interest where and when appropriate.

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**Background Papers**

Service Records

**Case Officer**

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# **A strategy for the management of Cheltenham's evening and night-time economy**

## **Introduction**

Cheltenham has successfully developed and maintained a thriving evening and night-time economy (ENTE): the largest night life scene between Bristol and Birmingham, exceeding towns comparable to Cheltenham in terms of population size and demographics. This is largely the result of the broad appeal of the night-time offer and the town's reputation as a good and safe night out, confirmed by Cheltenham's status as a Purple Flag town since 2016.

(Purple Flag is a national accreditation scheme managed by the Association of Town & City Management which on an annual basis assesses and recognises town and city centres that are committed to raising standards and broadening their appeal, specifically between the hours of 5.00pm and 5.00am).

[https://www.cheltenham.gov.uk/info/62/community\\_safety\\_and\\_crime/1167/our\\_town\\_at\\_night\\_-\\_purple\\_flag\\_status](https://www.cheltenham.gov.uk/info/62/community_safety_and_crime/1167/our_town_at_night_-_purple_flag_status)

The evening and night-time economy is crucial to Cheltenham and never more so than now. With the shopping experience progressively moving online, a thriving evening and night-time offer will be fundamental in sustaining the vitality of our town centre. It will attract visitors and residents to the centre and will encourage business growth within the sector. Spending by visitors and residents makes a substantial contribution to the economy of the town. A thriving ENTE will be a key element in plans to promote Cheltenham as a festival town and leisure destination.

Cheltenham Borough Council will act as lead partner for this strategy but it is intended that the strategy will form part of a cohesive approach by all partner agencies and groups in promoting the responsible use of alcohol, minimising the effects of crime and disorder and the associated impact on the police, health and other public authorities and ensuring that our evening and night-time economy continues to thrive.

## **Assumptions**

Much of Cheltenham's evening and night-time activity is concentrated within the town centre and whilst this is a strategy for the whole Borough of Cheltenham the focus will be on the area of the town centre designated as being within the Cheltenham Purple Flag zone (see appendix for map).

This strategy has adopted the Association of Town & City Management's Purple Flag definition as being economic activity occurring between the hours of 5.00pm and 5.00am.

## **Vision**

Cheltenham's evening and night-time economy should be a place that is accessible and appealing to every sector of the population, catering for all ages, interests and income groups and above all it should be safe.

## Ambitions

### 1. A safe night out for all

A safe evening and night-time economy is pivotal to its success and sustainability. It is important that visitors, residents and those working within the sector are safe and also perceive the town to be safe. The public perception of town centres at night can sometimes be quite negative and at odds with reality. These negative perceptions can impact the ENTE, contributing to a lack of footfall in the town centre and an absence of family focussed early-evening activity.

#### What we will do:

- We will work with statutory, voluntary and other relevant partners to undertake a public realm audit of the town centre to identify improvements and security enhancements.
- We will invest in the town's public realm CCTV system ensuring that it is maintained to a modern standard that is resilient.
- We will keep abreast of best practice across the UK and promote local and national best-practice schemes amongst our ENTE operators and regulators.
- We will celebrate and promote our own good practice.
- We will adopt a code of practice for all non-statutory partners operating in Cheltenham's ENTE to develop agreed service standards and operational boundaries.
- We will work with businesses in the ENTE to develop training pathways for staff working in the sector.
- We will be proactive in addressing negative perceptions of Cheltenham's ENTE through an adopted marketing strategy and proactive campaigns highlighting Cheltenham's Purple Flag status.
- We will review public transport arrangements in the ENTE to ensure they are safe and accessible. We will do this through adopting a programme of regular enforcement, regulation and inspections, reviewing taxi rank provision, rolling out safeguarding, equality and diversity training for taxi/private hire licence holders.
- We will explore funding opportunities to promote safety in the ENTE.
- We will maintain the town's Purple Flag status.

### 2. Well managed: an ENTE that works for everyone

We want Cheltenham's ENTE to work for everyone – businesses, residents, visitors and higher education students. An accessible and inclusive Cheltenham that is well managed will contribute towards a safe and sustainable town. The shared demands of the environment will have contrasting requirements. Whilst this strategy cannot meet all of these contrasting requirements, we will work on measures that will seek to find a reasonable medium.



Historically the evening and night-time economy has been synonymous with the consumption of alcohol. Whilst a large number of late opening businesses within the town centre are licensed to sell alcohol, a successful ENTE should welcome and cater for the increasing proportion of the population who choose not to drink alcohol for personal or cultural reasons.

We recognise that a partnership approach is vital to creating an ENTE that works for everyone.

Firstly, regulators should adopt regulatory approaches that support business in achieving an acceptable level of compliance and responsible operation but also recognising that in some cases enforcement action may be appropriate.

Secondly, businesses and operators in the ENTE also have a role to play to ensure they operate responsibly, are receptive to the sensitivities that may come with operating in the town and work proactively with regulators to support a well-managed ENTE. This should include active participation in good practice schemes such as Purple Flag and Best Bar None.

Finally, the council has an ambition to encourage people to live in the town centre. This will inevitably create a tension between the ENTE's offer and the ability of residents to live in reasonable peace and quiet. To this end, we must also be mindful of this in our measures to ensure Cheltenham's ENTE is one that works for everyone.

### **What we will do:**

- We will set-up a multi-agency governance group (including trade representation) to provide a strategic oversight of Cheltenham's ENTE including the implementation of this strategy and monitoring its impact. This group will be responsive and reactive to the changing wants and needs of the night-time economy and its users.
- Cheltenham Borough Council will continue to support the sound management of public safety in Cheltenham's evening and night-time economy through the employment of a night-time economy coordinator who will also coordinate Purple Flag.
- We will strive to ensure appropriate levels of public utilities and that street cleansing arrangements continue to be adequate for the ENTE's needs and requirements.
- Statutory regulators in the ENTE will work towards adopting a regulatory approach that, where appropriate, seeks to support businesses to achieve an appropriate level of operational compliance but equally recognising that in some cases formal enforcement will be necessary and proportionate.
- We will work to improve engagement with and the involvement of residents and resident's groups in the management of our evening and night-time economy, creating space for greater local ownership.

### **3. Sustainable: An evening and night-time economy that will last**

Nationally, evening and night-time economies have gone through difficult times in recent years. The prevalence of pre-loading (drinking alcohol at home before going out),

competing with the off-trade, behavioural shifts towards drinking and socialising at home and cultural shift towards more healthy choices have all played a part in creating a difficult trading environment. A successful and sustainable ENTE is one that recognises and adapts to these changes.

The growing realisation and acknowledgement of the social and economic importance of the ENTE has led to increased competition from other towns and cities across the region. People who might previously have travelled to Cheltenham for a great night out now have a greater choice of destination. In light of this, it is important that the council and its partners work proactively, to ensure that Cheltenham's ENTE remains resilient in the current climate and continues to thrive.

Cheltenham Borough Council is committed to making the town carbon neutral by 2030. Reducing carbon emissions will deliver positive environmental benefits and minimise Cheltenham's contribution to further climate change.

### **What we will do:**

- We will work with Marketing Cheltenham, Cheltenham Business Improvement District and other relevant partners to develop a marketing strategy and plan for Cheltenham's ENTE.
- We will appoint an ENTE champion for Cheltenham with sufficient political influence to effectively represent the ENTE.
- We will work with partners to find effective and sustainable ways to support businesses operating within the ENTE.
- We will proactively work to address negative perceptions about Cheltenham's ENTE.
- We will adopt and implement strategies to ensure the availability of safe and environmentally sustainable transport access to and from the town centre.
- As licensing authority, Cheltenham Borough Council will explore the feasibility of implementing a forward limit on emissions and a move to electric vehicles for taxis and private hire vehicles licensed to operate within the Borough of Cheltenham.

### **4. Accessible & inclusive: An ENTE for all to enjoy**

Cheltenham's evening and night-time economy should offer a vibrant choice of leisure and entertainment for a diversity of ages, groups, lifestyles, cultures and incomes. It needs to be inclusive and accessible to everyone. To this end it is important that the council and its partners work toward an ENTE offer that is diverse; both in its *offer* and *appeal*.

The town has largely been able to sustain a healthy and diverse offer in its ENTE. The current numbers of late opening businesses within the designated Purple Flag area (March 2019) indicate that alcohol based venues account for little more than a third of all businesses.

Category	Number	Percentage of total
<b>Alcohol based venues</b>		<b>36.8%</b>
Traditional pubs	14	7.6%
Food-led bars, café bars & branded food pubs	41	22.1%
Nightclubs & late venues	13	7.10%
<b>Food venues</b>		<b>44.8%</b>
Family restaurants	53	28.6%
Fine dining	6	3.2%
Fast food & takeaways	24	13.0%
<b>Culture &amp; entertainment</b>		<b>4.4%</b>
Theatre, concert & dance	4	2.2%
Cinema, bingo & casinos	2	1.1%
Live performance: music and comedy	2	1.1%
<b>Retail &amp; public buildings</b>		<b>14.0%</b>
Late opening shops & markets	19	10.2%
Late-opening museum, art gallery, library, education & community venues	2	1.1%
Sports, leisure & fitness venue	5	2.7%
<b>Total</b>	<b>185</b>	<b>100%</b>

In terms of its offer, we want to maintain this wide range of choice for residents and visitors in terms of places to eat, drink and other activities such as theatres, cinemas and other leisure facilities.

It terms of its appeal, we want Cheltenham's ENTE to be inclusive to everyone and we recognise that not everyone who visits the town at night wants to drink alcohol. As such, we want to work to promote more alternative choices and options such as alcohol free venues.

#### **What we will do:**

- We will work with elected councillors and policy makers to ensure licensing and planning policy reflects this strategy's ambition to maintain the ENTE's diverse offer and appeal.
- We will use opportunities to raise the profile and ambitions of this strategy, particularly with members of regulatory committees, as key decision makers that could influence the success of this strategy.
- We will work with the Cheltenham Business Improvement District and adopt council strategies to ensure Cheltenham continues to be a place where businesses are welcome and where innovative approaches are welcomed and encouraged.

#### **5. Data: An evening and night-time economy we understand**

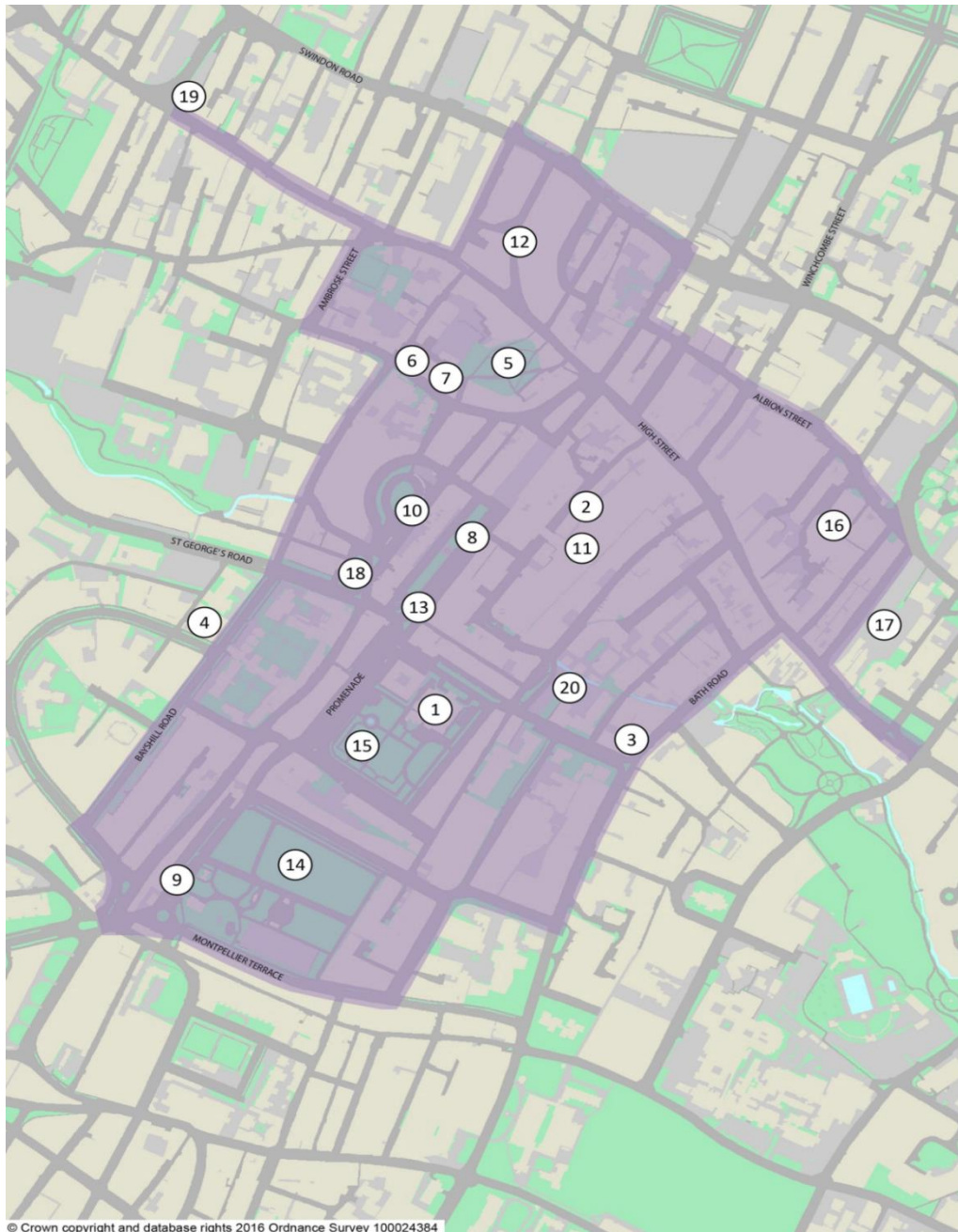
A well-managed evening and night-time economy needs a sound statistical base for policy-making and action. An understanding of the needs and problems of Cheltenham's ENTE through collaboration between sectors, partner agencies, service providers and users will enable policy makers to develop a clear aim and common purpose for the future development and management of our evening and night-time economy.

### **What we will do:**

- We will work to developing a robust approach to assessing the value, needs and problems in the ENTE through partnership working, intelligent use and interpretation of data and finding sustainable and creative solutions to issues.
- We will use existing Purple Flag data sources as a basis for assessment of the strengths and weaknesses of our ENTE.
- Develop clear and robust evaluation criteria to measure the impact of the ENTE strategy including setting a baseline to measure against.
- We will work with the police and other relevant partners to adopt a methodical approach to identifying crime and disorder hotspots and to put in place interventions to address this.

### **Evaluation**

Existing Purple Flag performance indicators provide a sound statistical base for evaluation of the progress and success of this strategy. These can be supplemented by additional performance indicators identified by the ENTE governance group.



- |                         |                                  |                               |
|-------------------------|----------------------------------|-------------------------------|
| 1. Cheltenham Town Hall | 8. Promenade taxi rank           | 15. Imperial Gardens          |
| 2. Everyman Theatre     | 9. Montpellier taxi rank         | 16. Town Centre East car park |
| 3. Playhouse Theatre    | 10. Royal Well bus/coach station | 17. St. James Street car park |
| 4. Parabola Arts Centre | 11. Regent Arcade                | 18. Royal Well car park       |
| 5. Cheltenham Minster   | 12. The Brewery Quarter          | 19. West End car park         |
| 6. Cheltenham Library   | 13. The Promenade                | 20. Rodney Road car park      |
| 7. Art gallery & museum |                                  |                               |

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