

Individual Consultation Responses

Agenda item

Review of Sexual Entertainment Licensing Policy

[Meeting of Full Licensing Committee, Wednesday, 5th March, 2025 6.00 pm \(Item 9.\)](#)

Minutes:

The Licensing and Public Protection Manager introduced the report as published.

The committee provided the following feedback to the Cabinet Member of Safety & Communities on the draft policy:

- The committee thanked the Head of Public Protection and the Cabinet Member for the work carried out on a very strong policy. They also thanked everyone who has already engaged in the original consultation and encouraged people to comment on the draft policy.
- They highlighted the importance of keeping the document relevant, robust and up-to-date to promote the highest possible standards.
- Members agreed that it remained preferable to licence and regulate sexual entertainment venues as this provided the best opportunity for safeguarding everybody involved.
- The nil limit outside the town centre provided a clear steer on where venues are likely to be tolerable.
- It was recommended that the limit of 2 venues should be removed and that the market should be left to decide how many venues can be supported, particularly given the possibility that the limit may push venues to open under the infrequent use exemption rules instead of as licensed venues. It was suggested that the Cabinet Member could consider introducing a rate of change to the policy to add a limit of 2 additional venues each year, although it was noted that this might be a challenging inclusion as it could reduce the flexibility of the committee's decision making powers.
- The proposed extension to the designated permitted area makes sense following the decision to license Under the Prom.
- The suggested wording amendments were felt to have positively improved the clarity of the conditions and reduce the likelihood of technical breaches.
- It was also highlighted that the specificity of the changes to section 25 was positive as it means protections for performers have been enshrined within the policy and reflects feedback received in the original consultation. It will reduce some of the negative working conditions that the committee have seen in the past.
- Need to list what policies are included in terms of discretionary grounds.
- The work carried out on the Public Sector Equality Duty and Equality Assessments is really important to consider how this policy impacts people with protected characteristics. The Chair thanked Leo Charalambides, the editor of the Journal of Licensing, for the work he has carried out in this area.
- It should be considered how the pledge that the council will tackle violence against women and girls could be added to the policy within the legal framework it operates within.
- It was suggested that those people working for the applicant in the public realm should be required to carry out bystander training on a 3-year basis to ensure they are trained at a proportionate level.
- They welcome the integrated approach to safety as those working within the SEV industry experience unique vulnerabilities often alongside specific profiles, for example the LGBT+ community can be disproportionately impacted. These groups don't necessarily have a high standard of social mobility or education available to them, so this industry can be a useful source of work but it is important that the council seek to regulate this to a higher extent. It is valuable to link together the different work the council is doing to ensure it is as inclusive as possible so it was suggested the policy should be integrated further with the safeguarding and social standards.

- Councillor Harvey thanked Councillor Willingham for the sensitive way he has chaired this topic during his tenure and highlighted his exemplary background knowledge. He highlighted that the committee have listened to all viewpoints with an open mind within the primary legislation, which falls outside the control of the council. In the past this has led to Members being threatened and abused. The committee take the concerns and safety of women seriously and have written to both the Conservative and Labour government, and have tried engaging with the Local Government Association and Institute of Licensing to highlight the concerns that have been raised with them. Members confirmed the importance of polite discourse and active engagement and encouraged people to read and comment on the policy during the consultation.

The committee:

- Noted the proposed revisions to the authority's adopted licensing policy for Sexual Entertainment licensing policy; and
- Provided formal recommendations and responses to the Cabinet Member of Safety & Communities in relation to the proposed revisions of the licensing policy.

Policy Proposals

This section of the consultation documents **outlines the proposed policy changes and amendments that the authority is specifically seeking feedback on** as part of the consultation.

About You

Name (optional):

Which best describes the capacity in which you are responding to this consultation **(required)**:

☒ A resident of Cheltenham

1. An approach where SEVs are licensed and regulated

Generally, the authority continues to prefer an approach where SEVs are licensed and regulated rather than operating unlicensed under the infrequency exemption. This general approach is driven by:

1. Acknowledgement that there is a high probability that SEVs would continue to operate regardless of a nil limit set in policy;
2. The fact that SEVs would continue to operate unlicensed and unregulated also means the public protection and public safety risks are substantially increased.
3. Equally, unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised. Unlicensed and unregulated SEVs will likely have the opposite effect as an unregulated activity.

Question: Do you agree, or disagree, with the authority's continued preference towards licensing and regulation as opposed to SEV operating unlicensed under the infrequency exemption? (required)

☒ Disagree

Please provide any further comments you wish to make in relation to your answer.

Please see document below

2. A nil limit

The authority has the discretion¹ to set a nil limit for licensed SEVs in any “relevant locality”. Relevant locality could be defined as the entire borough of Cheltenham or different parts within the borough.

The authority’s existing licensing policy sets two relevant localities:

1. An adopted “Designated Permitted Area” where the policy sets no limit on the number of licensed SEVs; and
2. The rest of the borough where the policy sets a nil limit.

The authority is not proposing a change to the existing two relevant localities.

The authority is of the view that the existing policy rationale for the two relevant localities remains relevant. That is that Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority’s view therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV.

Question: Do you agree, or disagree, with the authority’s proposal to maintain the existing to relevant localities and the limit(s) set for each? (required)

X Disagree

Do you have any other comments to make in relation to this?

Cheltenham should be considered in it’s entirety rather than creating hostile zones.

However, the authority recognises that the Designated Permitted Area within the town centre offers a more varied 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.

Within the Designated Permitted Area the town centre, the authority is proposing to set a maximum limited of two licensed SEVs.

The rationale for setting this maximum limit is based the fact that licensing history and experience has suggested two licensed SEVs are sufficient to satisfy demand for this type of licensed activity and supports the proposed “Acquired Rights” (discussed later in this consultation document) policy.

Question: Do you agree, or disagree, with the authority’s proposal to set a maximum limit of two licensed SEVs within the Designated Permitted Area the town centre? (required)

☐ Agree

☐ Disagree

Do you have any other comments to make in relation to this?

Whilst this would be an improvement, I cannot wholly agree with this proposal for the reasons outlined in the document below

¹ 12(3)(c) of the Local Government (Miscellaneous Provisions) Act 1982

Additionally, the authority is proposing to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered.

The rationale for this is the acknowledgment that the Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area. Whilst each application is determined on its individual merits, the licensing in this proposed area has set some precedence to justify the proposed change.

Question: Do you agree, or disagree, with the authority's proposal to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered? (required)

X Disagree

Do you have any other comments to make in relation to this?

The DPA has been de facto extended by exemption in licensing decisions. Would the DPA actually be maintained this time or would there be further creep? Also, please see document below.

3. Amendments to Standard Licensing Conditions

The authority is proposing to amend a number of standard licensing conditions:

Existing Condition	Change/amendment
Condition 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.	Remove – substantially addressed by condition 6 below.
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 4 as stated? (required)</p> <p>X Disagree</p> <p>Do you have any other comments to make in relation to this?</p> <p>It is important not to create a loophole whereby the claim can be made that photographs and images do not constitute advertisements.</p>	
Condition 6 – 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.	<p>Add – "...with the exception of any registered trademark, trading name or trading symbol that has been provided to the authority in connection with the most recent application for licence, its renewal or variation as the case may be."</p> <p>The authority, believes provides a reasonable balance that will:</p> <ol style="list-style-type: none"> 1. allow the greater flexibility for operators (recognising SEVs are a legitimate part of the retail and leisure industries); 2. whilst ensuring public protection and safeguarding though:

	<p>3. restricting the “exempt” advertisement content; and</p> <p>4. implementing a proposed process whereby the authority will scrutinise and approve “exempt” advertisement content.</p>
<p>Question: Do you agree, or disagree, with the authority’s proposal to change/amend condition 6 as stated? (required)</p> <p>X Disagree</p> <p>Do you have any other comments to make in relation to this?</p> <p>Given the history of licensing decisions, exemptions (e.g. of flyering and branded ‘cruising vehicles’), breaches (such as personal solicitation) and dismissal of local community objections, what confidence can residents have in relation to scrutiny of “exempt” advertisement content?</p>	
Conditions 22 & 26 references to “state of undress”	<p>Replace “state of undress” with “display of nudity”.</p> <p>This is to provide clarity of definition.</p>
<p>Question: Do you agree, or disagree, with the authority’s proposal to change/amend conditions 22 & 26 as stated? (required)</p> <p>X Disagree</p> <p>Do you have any other comments to make in relation to this?</p> <p>Current standard conditions refer (20) refers to “state of undress” in relation to performers not engaged in performing and performers in licensed areas. Clarity is welcomed here but the distinction needs to be drawn between nudity and appropriate costuming. The Conditions could refer instead to either the “scantily-clad” phrase used elsewhere in the conditions or something akin to “Performers not engaged in performing shall not remain in any area unless fully wearing their approved outfit” and “Entertainers or performers not performing must not be in a licensed area unless fully wearing their approved outfit”.</p>	
Condition 24 - 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.	<p>Amend condition 24 to read:</p> <p>An appropriate room, or rooms, shall be set aside to provide a changing and rest area for performers. As a minimum:</p> <ol style="list-style-type: none"> Access to such room(s), must be restricted to performers only and reasonable measures put in place to ensure security and exclusive use; The location of such room(s), must be marked on the plan of the premises; Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary facilities may be implemented

	<p>subject to the approval of the authority;</p> <p>d. Such room(s) must be fully accessible and unrestricted to performers during all times the premises is open and operating for Relevant Entertainment;</p> <p>e. Such room(s) must be of decent standard, including, but not limited to, general condition and safety, occupiable space, seating provision, access to free drinking water or other non-alcoholic refreshments and sufficiently heated; and</p> <p>f. Such room(s) should provide separate and private smoking facilities for performers. Where direct access to separate and private smoking facilities for performers is not available or practical, other arrangements for separate and private smoking facilities may be implemented subject to the approval of the authority.</p>
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 24 as stated? (required)</p> <p><input type="checkbox"/> Broadly Agree</p> <p>Do you have any other comments to make in relation to this?</p> <p>(f) suggests smoking is being allowed in the premises in the first sentence (but not the second).</p>	
<p>Condition 25 - Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.</p>	<p>Partly amend to remove "Any bodily contact between entertainers or performers or" but retain "Any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden."</p> <p>This is to address a technical breach where accidental bodily contact between entertainers or performer could occur.</p>
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 25 as stated? (required)</p> <p><input checked="" type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>This creates a loophole where it can be claimed any such movement was accidental.</p>	
<p>Condition 35 - 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</p>	<p>Replace "Police Crime Reduction Officer" with "Gloucestershire Constabulary".</p>

installed in all areas as recommended by the Police Crime Reduction Officer.	
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 35 as stated? (required)</p> <p>X Agree <input type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? Replace "it to be" with "must be"</p>	

4. "Acquired Rights" Policy

The authority is proposing to adopt an "Acquired Rights" policy. Under such a proposed policy, the authority seeks to acknowledge that there are currently licenced Sexual Entertainment Venues within the borough that have been licensed for a number of years.

As such, under the proposed "Acquired Rights" policy, the authority proposes to determine that these licensed SEVs will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period. If there are any objections to an application, it will be considered by the Licensing Committee in accordance with the relevant statute.

This essentially provides acquired rights to these existing operators for the current time.

The High Court on [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#) ruled such a policy lawful if applied correctly. Such a policy would not fetter the authority's discretion because the statutory grounds for refusal would continue to apply, and the proposed policy does not preclude objections. The implications of the proposed "Acquired Rights" policy would create a presumption in favour of renewal if there were no material change in the character of the area in the intervening period.

<p>Question: Do you agree, or disagree, with the authority's proposal to adopt an "Acquired Rights" Policy? (required)</p> <p>X Disagree</p> <p>Do you have any other comments to make in relation to this?</p> <p>It is important to retain, and guidance be written for Councillors and Officers, that:</p> <ul style="list-style-type: none"> a) There is no presumption that there will be automatic renewal of licences b) There is no presumption that new objections without changes in material factors should be automatically dismissed c) There is no presumption that SEV Policies should remain unamended unless new material factors arise. <p>Otherwise the process will inevitably become bogged down in argument about what constitutes "new material factors".</p>

5. Plans

The authority is seeking to strengthen the policy requirements as it relates for plans accompanying applications for SEVs. The authority acknowledges feedback from those who have engaged in the licensing process that, at times, plans accompanying applications have not been sufficiently clear, up to date and/or sufficient for the purpose of commenting on individual applications.

Section 6 of the existing policy outline the policy requirements as they relate to plans accompanying applications. Proposed changes (where in bold sections indicate the proposed changes):

1. 6.1 Replace “The plan shall be drawn at a scale of 1:100 and shall show” with “**All plans submitted must be drawn at a scale of 1:100, clearly indicate the scale and must be clear and fully legible.**”
2. Replace h) “The dressing room of performers” with “**The room(s) allocated to allow performers to rest, dress and store personal items including any bathrooms or other facilities set aside for exclusive use by performers.**”
3. **New section o) “Must clearly indicate the location, layout and sizes of all booths inside the premises used for “Relevant Entertainment””.**
4. **New section p) “All plans accompanying the application must have a clear drawn date and reference number indicated.”**

Question: Do you agree, or disagree, with the authority's proposal to amend the policy requirements for plans to accompany applications? (required)

X Agree

6. Designated Person in Charge

The authority is proposing to implement a new requirement on applicants for SEV licenses, including subsequent/renewal applications, to clearly identify a designated person in charge.

Similar to the role of a Designated Premises Supervisor under the Licensing Act 2003, the designated person in charge will be the key person who will be responsible for the day-to-day management of the licensed SEV, including (but not limited to):

1. responsibility to ensure compliance with law and licensing conditions;
2. being available during inspections and;
3. able to respond to requests by the police or authorised officers of the council for information, evidence (i.e. CCTV footage) and/or addressing immediately issues arising from the operation of the SEV.

The designated person in charge will be specified on the licence.

Question: Do you agree, or disagree, with the authority's proposal to implement a “Designated Person in Charge” requirement? (required)

X Agree

7. Factors for consideration- Discretionary grounds (a) and (b)

The authority is proposing to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b).

This is to assist licence holders, potential licence holders, the public and the Licensing Committee with further guidance on relevant matters to consider when determining applications. Grounds (a) and (b) are:

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 themselves.*

The proposed supplementary guidance is:

In considering the suitability of those persons referred to in (a) and (b) above, the factors the Council may take into account includes:

- relevant experience;
- relevant criminal convictions;
- whether the person has committed relevant offences;
- relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;
- relevant findings by courts and tribunals in connection with the treatment of protected groups (within the meaning of the Equality Act 2010)
- information germane to the person's ability to, among other things:
 - ensure the safety and wellbeing of performers;
 - ensure the proper protection of the public;
 - ensure the suitability of employees, performers and others using the venue;
 - prevent performance by or for those who may thereby be harmed, including minors;
 - understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises; and/or
 - engage constructively with the Council and other relevant regulators.

Question: Do you agree, or disagree, with the authority's proposal to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b)? (required)

X Disagree

Do you have any other comments to make in relation to this?

Whilst I agree that further clarification is a good idea, the proposed clarification is less than clarifying:

- Who determines, and how, what "relevant experience" is?
- Why is "relevant education and training" not also included here?
- Who determines, and how, what is a "relevant criminal conviction"?
- How is it determined that a person has committed relevant offences outwith conviction? Is this reference to Enhanced DBS information?
- Why is the relevant courts and tribunals limited to Equalities and not worker rights?

Equality Impact Assessment

In accordance with the authority's duties under the Equality Act 2010, an Equality Impact Assessment has been undertaken to inform the policy proposals outlined in this document.

As part of this consultation, the authority is seeking feedback on the Equality Impact Assessment that underpins the various policy proposals.

The Equality Impact Assessment is a separate document (to this consultation document) but forms part of the overall SEV policy consultation.

Question: Do you have any comments on the Equality Impact Assessment accompanying the proposed draft policy? (required)

X Yes

If "Yes", please provide your comments below:

- 1) Its literature base is very limited and handled inequitably – the only detailed discussion under (2) is a critique of one article but the findings of the others are summarised in just two bullet-points. Some of the literature base entries are merely recapping the legislation which is not adding to an evidence base.
- 2) It has a very limited scope which could be summarised as "Do SEVs cause a rise in Police recorded sexual offences perpetrated by SEV customers?" That is not the question that a PSED EIA should be attempting to answer as:
 - a) EIAs are about anticipating impact on equalities and protected groups, not addressing a particular discursive question
 - b) Causal links are difficult to establish even with primary research data.
 - c) The question is so limited in scope that even with primary research data, it could not be answered.
 - d) Police recorded data is not a good measure of the incidence of sexually aggressive actions or, indeed, the scope of sexual violence and sexual offences, as is clearly discussed in extensive literature.
 - e) It posits that the question to be addressed is "the public protection, community safety and safeguarding impacts of unlicensed SEVs operating under the statutory infrequency exemption". However, this is not the key questions for the PSED:
 - i) Does the continuation of the current licensing policy
 - (1) help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?
 - (2) help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it
 - (3) help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.
 - ii) Would a zero cap on SEVs:
 - (1) help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?
 - (2) help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it
 - (3) help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.

- iii) Would alternative legislation use
 - (1) help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?
 - (2) help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it
 - (3) help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.
- 3) The EIA rightly acknowledges that “the races will continue to attract large numbers of people to the town” but asserts, without evidence, this is the cause of equalities issues. A more measured approach would have been to suggest that this *may* be a causal factor. However, more deep-rootedly, this suggests an attitude underpinning the EIA that violence against women and girls is inevitable where there are large numbers of people coming to the town and that it was not conducted in line with CBCs position of working to eliminate violence against women and girls and ensure equity for protected groups.
- 4) It implicitly posits that there is a paradoxical relationship between public health approaches and a zero cap which is unsupported (and unsupportable). Harm minimisation, which underpins that public health approach, may include removing access to harmful processes, services or goods.
- 5) The EIA suggests (under the auspices that the choice is licensed or unregulated provision) that incidents are wholly or in the main related to ‘unlicensed’ provision. But over the last year a number of incidents have been reported at licensed SEV premises which is not acknowledged.
- 6) Many of the detailed impacts are responded to through the same lens of licensed or unregulated and foundationally accept the contention by SEV business owners that they would use all possible legal loopholes to continue trading. That contention has not been tested. Furthermore, an EIA should not be written from the viewpoint of the business owner’s potential future actions but as a review of the Equalities Impacts of the current consultation (whether to maintain the current position or implement a zero cap) on behalf of the organisation conducting the EIA (CBC). This particularly applies in consideration of Age, Mental Health (where is lack of consideration of the potential impacts of greater feelings of unsafeness on mental health conditions protected under the Equality Act (2010)), Religion and Belief (which incorrectly says the issue is about ‘building use’ rather than ‘in the locality of buildings’) and Sex.
- 7) In Marriage and Civil Partnership Impacts section for Lesbians and the Sexuality section for all categories, the EIA says issues are mitigated by the policy being gender neutral. Additionally, transmen and transwomen are considered twice (under Gender Reassignment and under Sex). This suggests a lack of appreciation for the differences between Sex, Gender Identity and Sexuality.
- 8) It misnames VAWG (Violence Against Women and Girls) as VAGW and suggests that as less than 8% of respondents to the VAWG survey were men, this means there are no issues for men. More plausibly, it means men were not motivated to answer a survey which was directly asking about Violence Against Women and Girls.
- 9) It incorrectly states that the infrequent basis exemption is for 16 days in any one year which it is actually “for longer than 24 hours, with at least a calendar month separating each occasion, and on no more than 11 occasions over a 12 month period” and assuming premises “have the required permissions (such as performance of dance and music) under the Licensing Act 2003

either by means of a Temporary Events Notice or the premises' current premises licence".

(<https://www.cheltenham.gov.uk/info/77/licences> -

[sex establishment and sexual entertainment/921/sexual entertainment venues](https://www.cheltenham.gov.uk/info/77/licences))

- 10) Performers are not a protected category under the Equality Act (2010). Whilst it is right that attention is paid to their protections (safeguarding, employment conditions, human rights etc.) their wider equality protections come under Sex, Race, Age and Sexuality and therefore should not be considered separately to their inclusion in these protected categories in the impacts.
- 11) Furthermore, the inequity that there are no male performers in Cheltenham is not considered under "Men".
- 12) The VAWG 2023 survey did find that lesbians and, particularly, bisexual women were at greater risk of gender-based violence, this is not accurately reflected in the EIA.
- 13) The Socio-Economic Factors section misrepresents the dancers as employees and the known issues around income and contradicts earlier statements in the EIA that SEVs do not, in and of themselves, constitute an attraction into the town. There is no evidence provided that people come to Cheltenham to attend a SEV rather than coming to attend the Races (as noted on p21). This section also says that there is an increased risk of 'unregulated' operators introducing fees and penalties; however this is standard operating practice in the sector, as evidenced by prior Licensing Applications and is not regulated or licensed under the current arrangements.
- 14) There are no suggested Actions completed (including to reaffirm the current arrangements or to introduce new safeguards short of a zero cap), no Hazards identified under the Unlicensed SEVs table (p20-22) nor is the EIA email address completed.
- 15) On p22, in adjacent boxes, the EIA states "There is a range of premises closure powers that, depending on the circumstances, may be used to close down unlicensed sexual entertainment premises" and "These powers could not be used to generally close unlicensed sexual entertainment venues recognising that unlicensed sexual entertainment is lawful". Only one of these statements can be correct.
- 16) On p22, the statement is made that "Unlicensed sexual entertainment venues give local communities no say or empowerment over where and how they operate", however from the record of licensing decisions, the same is true for Licensed Sexual Entertainment Venue where repeated representations from local communities have had no impact.

Cheltenham Borough Council Sexual Entertainment Venue Consultation Response

Recommendations

1. Given the choice is not between regulation and deregulation/uncontrolled provision but about which legislation the licencing authority uses to regulate the 'entertainment', what consideration has been given to de-adopting the SEV powers and using the Local Government (Miscellaneous Provisions) Act 1982 S3 which would allow for not issuing waivers or only issuing waivers where the regulated entertainment is exceptional, ancillary and kept to a minimum in relation to other activities not licensable under the provisions of the 1982 Act.
2. CBC should consider whether incomplete or ineffective adherence to advertisement of the application in public and online should be considered during the Licensing Hearing including the implications for potential public responses to the application.
3. CBC should be clear about whether the DPA is to be rigidly enforced or whether it is more flexible guidance.
4. CBC needs to be clear about how it is operationalising "relevant locality" and the restriction relating to buildings of religious or educational use and should, at minimum, set guidance relating to distance and/or sightlines.
5. CBC should consider including, as a Standard Condition, training for (freelance, contract and directly employed) staff on relevant issues designed to reduce potential harms in relation to gender inequality, public spaces and violence, intimidation and abuse against women and girls.
6. CBC should consider whether conflating sex work with other 'retail and leisure' industries is appropriate given language use in this area is sensitive issue.
7. CBC should make clear how they assure and quality assure consistency of discussion and decision making despite inconsistent attendance of Counsellors at Licensing meetings.
8. CBC decision makers should be clear that the question to address under the PSED is:
 - a. Does the continuation of the current licensing policy
 - i. help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?
 - ii. help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it
 - iii. help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.
 - b. Would a zero cap on SEVs:
 - i. help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?
 - ii. help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it
 - iii. help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.
9. CBC should note and consider The King (On The Application Of) CDE v Bournemouth, Christchurch And Poole Council ruling that objections relating to the experiences of women and girls in the relevant locality during SEV hours of operation cannot be dismissed as 'moral'

objections and guidance should be written for Councillors and Officers involved in Licensing Hearings.

10. What Equality Impact Assessment (Public Sector Equality Duty) has been undertaken by CBC in relation to the licensing of SEVs and equitable sense of access to Cheltenham Town Centre spaces and SEVs and increasing precarity within women's employment?
11. CBC should be clear about whether the Standard Conditions are to be rigidly enforced or whether it is more flexible guidance.
12. CBC should consider including, as a Standard Condition, training for (freelance, contract and directly employed) staff on relevant issues designed to reduce potential harms in relation to gender inequality, public spaces and violence, intimidation and abuse against women and girls.
13. At minimum, the Licensing Committee should ask to see a total of the House Fees + per dance fee + fines taken for each performer for each shift and check this against feedback from freelance dancers.
14. At minimum, the Licensing Committee should ask applicants for an outline of how many local jobs of duration more than 5 days in any month are created by their application.
15. It is unclear how licensing premises which create a feeling of unsafety for women in the Town Centre (as demonstrated by CBCs own surveys and research showing that the presence of sexually oriented businesses is associated with high rates of turnover of nearby commercial premises and a decrease in nearby business property values (McCord & Tewksbury 2012)) will deliver the goal of more residents engaging with the cultural and nightlife of Cheltenham.
16. The Equality Impact Assessment (Public Sector Equality Duty) is problematic in its current form in that:
 - a. Its literature base is very limited and inequitably handled
 - b. It has a very limited scope and does not address the key question for a PSED EIA
 - c. It does not clearly embody CBC's commitments to work towards the eliminate violence against women and girls and ensure equity for protected groups in how it is written.
 - d. It makes a number of implicit and explicit foundational assumptions which lack direct evidence or support from wider literature.
 - e. It suggests (under the auspices that the choice is licensed or unregulated provision) that incidents are wholly or in the main related to 'unlicensed' provision which is demonstrably not the case.
 - f. It contains a number of factual inaccuracies and contradicts itself in places.
 - g. It does not appear to appreciate Equality Act (2010) categories and what they mean.
 - h. It only partially considers or fails to consider a number of relevant issues.
 - i. It is not fully completed.
 - j. It does not assess the impacts of the SEV licensing decisions since introduction.

Background

- 2) Local Government Authorities under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 amended by S27 Policing and Crime Act 2009, allows applicants to apply for, renew, vary and/or transfer a Sexual Entertainment Venue (“SEV”) licence where they wish to offer “relevant entertainment” on a frequent basis. Cheltenham has chosen to adopt these powers.
- 3) Under the term of this legislation, frequent is more than 11 times in a single year or more than two days in a single month and ‘relevant entertainment’ includes any live performance or any live display of nudity (which has been defined in the new policy) reasonably assumed to be proved for sexual stimulation of the audience (which can be a single person).
- 4) CBC should consider the option to de-adopt Policing and Crime Act 2009 S27 and return the licensing of SEVs to the provisions of Local Government (Miscellaneous Provisions) Act 1982 S3. It can, then, decide to maintain the current proposal stance to not issue waivers or decide to only issue waivers where the regulated entertainment is exceptional, ancillary and kept to a minimum in relation to other activities not licensable under the provisions of the 1982 Act. Therefore, it is important to be clear that the **choice is not between regulation and deregulation/uncontrolled provision but about which legislation the licencing authority uses to regulate the ‘entertainment’**.
- 5) Under the 2009 legislation powers (adopted by CBC), objections to an SEV licence must relate to either or both of the mandatory or discretionary grounds for refusal, namely:
 - a. Mandatory Grounds
 - i. Applicant is under 18 years of age
 - ii. Applicant has had a previous licence revoked within CBC in the past 12 months.
 - iii. Applicant is not resident in an EEA state nor was resident for the 6 months prior to the application
 - iv. The business (body corporate) is not incorporated in an EEA state
 - v. The applicant has had a licence or renewal refused in the 12 months prior to the application.
 - b. Discretionary Grounds
 - i. the applicant is unsuitable to be licenced due to conviction or any other reason
 - ii. the business is to be managed by or carried out for the benefit of another person who would be refused the license on mandatory or discretionary grounds
 - iii. the number of SEVs in the relevant locality is equal to or exceeds the number which the Council considers appropriate and nil may be the appropriate number set
 - iv. the grant or renewal of the licence would be inappropriate due to:
 - (a) the character of the relevant locality including
 - (i) residential areas
 - (b) the use to which any premises in the vicinity are put
 - (i) sites near shops used by or directed at families or children, or on frontages frequently passed by the same
 - (ii) sites near properties which are sensitive for religious use

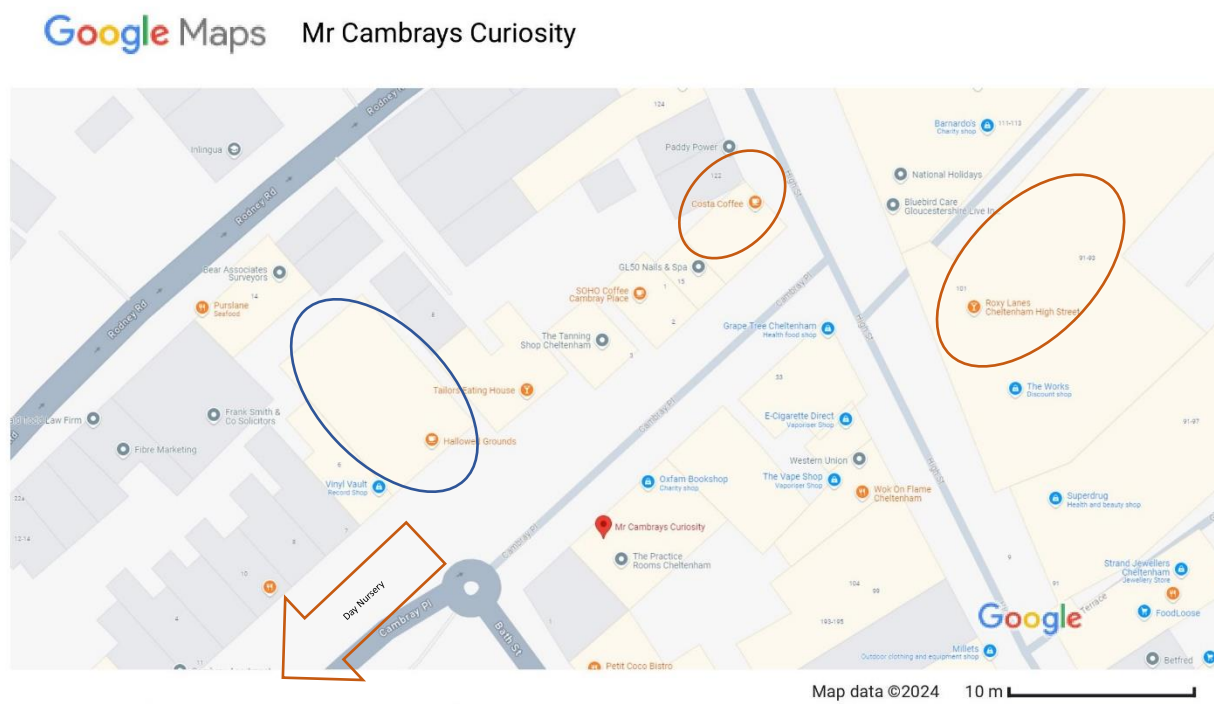
(iii) sites near premises or areas which are sensitive because they are frequented by children, young persons or families.

(c) the layout, character or condition of the premises

- 6) An SEV licence application requires advertisement of the application in a local authority no later than 7 days after the application is made and display of the notice for 21 days beginning on the date of application on or near the premises and where it can be conveniently and easily read by the public. This is to enable objections to be made no later than 28 days after the date of application. This has not always been done and even online portal display has not always been fully available to members of the public – most often having broken links, incorrect “User not approved to view” or missing parts of the documentation. **CBC should consider whether incomplete or ineffective adherence to advertisement of the application in public and online should be considered during the Licensing Hearing including the implications for potential public responses to the application.**

Issues relating to ‘Locality’

- 7) CBC has adopted a nil cap for predominantly residential areas and implemented a Designated Permitted Area (DPA) with no cap on the number of SEV licences. However, subsequent licencing decisions have *de facto* extended the DPA by licencing premises “just outside” (CBCs term) the DPA. **CBC needs to be clear about whether the DPA is to be rigidly enforced or whether it is more flexible guidance.**
- 8) Schedule 3 to the 1992 Act demands that the Licensing Authority must pay attention to the nature of the relevant locality. It leaves defining the ‘relevant locality’ to the Licencing Authority with the guidance that “relevant locality” is the locality in which premises are situated, or any a vehicle, vessel or stall is to be used as a sex establishment (para. 3.33). The guidance for the 1992 Act notes that it is reasonable and useful to applicants (and objectors), for a local authority to decide *in advance* what constitutes “relevant locality”. But CBC has a history of licencing premises near to religious (St Matthew’s Minster and Cambray Baptist Church) and educational (Cheltenham Ladies College) in conflict with 8.b.iv.(b).(ii) above. Even looking at the smallest “relevant locality” (less than 300m diameter) for one licenced SEV in Cheltenham (map below) it is clear that there are premises meeting (b)(ii) (circled in blue) and (b)(iii) (outlined in orange) within this area. Given Cheltenham’s “strong retail centre” and heritage which shows traditional interweaving of retail, social, spiritual and residential premises, it is difficult to think of an area within the DPA which did not have premises meeting (b)(i)-(b)(iii). **Therefore, CBC needs to be clear about how it is operationalising “relevant locality” and the restriction relating to buildings of religious or educational use and should, at minimum, set guidance relating to distance and/or sightlines.**



Issues relating to Objections

- 9) Objections cannot be made on moral grounds or values not relevant to either the mandatory or discretionary grounds for refusal. CBC states that it “recognises that Parliament has made it lawful to operate SEVs and that such businesses are a legitimate part of the retail and leisure industries”. There is, however, a strong argument that SEVs are less part of retail or leisure industries and more firmly within the sex work industry and due regard should be given to this fact. In no other ‘leisure’ industry would workers or performers be allowed to provide the sort of ‘regulated entertainment’ which is provided in SEVs and, indeed, this is why it is separately regulated. **CBC should consider whether conflating sex work with other ‘retail and leisure’ industries is appropriate given language use in this area is sensitive issue.**
- 10) In deciding on an SEV application, members of the licencing authority must pay due regard to any observations made by the Police and comments made by other business/premises in the locality and by members of the public. This has recently been tested in *The King (On The Application Of) CDE v Bournemouth, Christchurch And Poole Council* where it was found that Bournemouth, Christchurch And Poole Council was not conscientious in taking into account of objections in terms of their Public Sector Equality Duty and in terms of material grounds for objection. The decision made clear that Bournemouth, Christchurch And Poole Council had wrongly determined relevant PSED and material objections were ‘moral’ in nature by effectively conflating objections which stated “SEVs will detrimentally impact the freedoms of women and girls to access the town centre” with “lap dancing is wrong”. **CBC should note and consider this Ruling carefully in the operation of Objection Hearings.**
- 11) CBC should consider whether their Subcommittee has demonstrated the ability to conscientiously consider applications and objections given that from 1st September 2023-30th

September 2024 there were 11 scheduled Licensing Sub-Committee meetings, of which 9 took place as scheduled. Of the members of the Sub-Committee over that period, none attended all the meetings. Attendance frequency by number of meetings is given below. Whilst it is accepted that not all of the Councillors would have been appointed to the committee for the whole year, the fact that there is such inconsistent attendance could be argued to impair quality and consistency of decision making.

Frequency	Number of Councillors	Frequency	Number of Councillors
9	0	4	0
8	1	3	1
7	1	2	2
6	1	1	6
5	1	0	0

CBC should make clear how they assure and quality assure consistency of discussion and decision making despite inconsistent Councillor attendance.

12) Although non-statutory guidance states “local authorities should not consider objections that are not relevant to the mandatory and discretionary grounds” this does not mean, however, that the authority is not bound by primary legislation and statutory requirements including the Public Sector Equality Duty.

- a) The statutory PSED places a requirement on the council to have due regard to the need to:
 - i) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010
 - ii) advance equality of opportunity between persons who share a relevant protected characteristic² and persons who do not share it
 - iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The question here thus becomes

(1) Does the continuation of the current licensing policy

- (a) help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?**
- (b) help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it**
- (c) help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.**

(2) Or, would a zero cap on SEVs:

- (a) help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?**
- (b) help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it**
- (c) help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.**

² Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- b) The King (On The Application Of) CDE v Bournemouth, Christchurch And Poole Council reiterated this fact. **As such, and at minimum, objections relating to the experiences of women and girls in the relevant locality during SEV hours of operation cannot be dismissed as ‘moral’ objections.**
- c) Potential (but not exhaustive) equality issues which may be relevant include:
 - i) The need to protect performers from harassment and threat
 - ii) The need to ensure that any protected characteristic group is not more, or less, welcome than another
 - iii) The need to properly consider the fear of any protected characteristic group using and accessing public spaces, facilities and infrastructure
 - iv) The need to properly understand the relevant locality and 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
 - v) The need to consider the views and experiences of people with disabilities as a protected characteristic group.
- d) The licensing policy is one way to achieve good outcomes with regard to these and appropriate conditions and robust enforcement may also assist. However, it is not clear how conditions are being monitored and enforced, particularly around the safety of people in the town centre. For example, one SEV had conditions for women’s safety including
 - i) Anti-sexual harassment training and Bystander Intervention Training – the training on 12-3-23 was a taster not a full training and no request for full training has been made to the trainer or, as far as she is aware, any of the other trainers in County.
 - ii) Implementation of results of discussions with GRASAC re: best practice, additional literature provision and safety measures.
- e) In regard to iii above, it is important to pay due regard to the voices of affected individuals in a protected characteristic group. CBCs Women’s Safety Survey found in 2021 that 75% of women did not feel safe in the town centre during Race Weeks. By the 2023 iteration this has risen to 92%. The area in which SEV licenses have been approved were, in the 2023 survey, hotspots for street harassment, stalking and other forms of sexual harassment³.
- f) In terms SEVs, the PSED sex characteristic and iii above, a BBC article on Cheltenham (December 2023) recounted one young woman saying of street sexual harassment saying "It makes me feel really unsafe because you never know quite what to expect from the people saying it." (Rebecca Jones, 20).
- g) Whilst, to date, there has been no Equalities Impact Assessment for licensing policy the EIA for Culture Strategy says "Cheltenham is a vibrant place and cultural destination where the fusion of arts, digital and heritage innovation fosters creative and inclusive communities where everyone has the chance to thrive". This is in support of the #ILoveCheltenham ‘Place Vision’ which states “We want Cheltenham to be a place: where all our people and the communities they live in thrive; where culture and creativity thrives, is celebrated and enjoyed throughout the year; where businesses and their workforces thrive; where everyone

³ This was an amalgamated category for all incidents other than stalking, sexual assault, sexual harassment, indecent exposure, spiking, upskirting, catcalling and wolf-whistling.

thrives". The impact of SEVs on the first, third and fourth of the Place Vision statement and on the EIA Culture Strategy aim should be given due conscientious consideration.

13) Guidance for Councillors and Officers should be written to clarify that:

- a) There is no presumption that there will be automatic renewal of licences
- b) There is no presumption that new objections without changes in material factors should be automatically dismissed
- c) There is no presumption that SEV Policies should remain unamended unless new material factors arise.

Issues relating to compliance with additional legal requirements and duties

14) The variations and relaxing of the PDA arguably constitutes a blurring of the conditions under the Provisions of Services Regulations (2009). As noted above, there is little evidence for, and some against, SEVs generating economic progress which thus means that this would not breach the Regulatory Reform Act's (2006) Regulatory Compliance Code. A zero cap would better demonstrate commitment to S17 Crime and Disorder Act 1998 and taking seriously duties under the Public Sector Equality Duty in relation to gender equality⁴.

Issues relating to variation of Standard Conditions

15) Once a decision has been made on the maximum number of SEVs in an area, the licensing authority can impose standard conditions on all SEVs being licensed. CBC has chosen to do so and these are reproduced in Appendix A. However, CBC has a history of repeated variations of the Standard Conditions in licensing SEVs particularly pertaining to:

	Jan 22	Nov 22	Feb 23	Oct 23	Dec 23	Jan 24 ⁵	Sept 24 ⁶
Solicitation of customers in locality (Appendix A 6a)	✓	✓	✓		✓	✓	✓
Provision of a cruising courtesy vehicle (Appendix A 6d)	✓	✓	✓		✓	✓	✓
Advertising for cruising courtesy vehicle (Appendix A 6d)	✓	✓					✓
Hours of operation (Appendix A 1)		✓	✓	✓	✓		✓
Leafletting in Town (Appendix A 6d)			✓		✓	✓	✓
Bodily contact or movement that indicates simulated/sexual activity between performers (Appendix A 24).							✓

CBC should be clear about whether the Standard Conditions are to be rigidly enforced or whether it is more flexible guidance.

⁴ Indeed, former Police and Crime Commissioner for Somerset and Avon, Sue Mountstevens argued that SEVs undermined progress on gender equality because they "cultivate and actively encourage objectification and the attitude of entitlement and access to women's bodies" (Hearty 2018).

⁵ Note this was a renewal of licence application which sought to also (automatically) renew previous variations.

⁶ Note this was a renewal of licence application which sought to also (automatically) renew previous variations and added a new variation.

- 16) Herefordshire has recently reviewed its SEV and included provisions on staff training in licensed SEVs. They mandate training in relation to responsibilities in relation to running such establishments, Local Government (Miscellaneous Provisions) Act 1982, basic public safety, housekeeping arrangements relative to premises and, depending on job role, first aid, age verification, basic health and safety etc. Such training must be agreed with the licensing authority, completion recorded and made available to an officer of the licensing authority on demand. **CBC should consider including, as a Standard Condition, training for (freelance, contract and directly employed) staff on relevant issues designed to reduce potential harms in relation to gender inequality, public spaces and violence, intimidation and abuse against women and girls⁷.**

Issues relating to alignment with other CBC Policies and Plans

- 17) CBC should give appropriate consideration as to whether SEV licensing is paying appropriate heed to their own research about Women's Safety Survey results, is ensuring the ability of all people to move around the centre with ease and whether they reinforce the character and identity of the area.
- 18) **The Equality Impact Assessment (Public Sector Equality Duty) is problematic** in its current form in that:
- a) Its literature base is very limited and handled inequitably – the only detailed discussion under (2) is a critique of one article but the findings of the others are summarised in just two bullet-points. Some of the literature base entries are merely recapping the legislation which is not adding to an evidence base.
 - b) It has a very limited scope which could be summarised as “Do SEVs cause a rise in Police recorded sexual offences perpetrated by SEV customers?” That is not the question that a PSED EIA should be attempting to answer as:
 - i) EIAs are about anticipating impact on equalities and protected groups, not addressing a particular discursive question
 - ii) Causal links are difficult to establish even with primary research data.
 - iii) The question is so limited in scope that even with primary research data, it could not be answered.
 - iv) Police recorded data is not a good measure of the incidence of sexually aggressive actions or, indeed, the scope of sexual violence and sexual offences, as is clearly discussed in extensive literature.
 - v) It posits that the question to be addressed is “the public protection, community safety and safeguarding impacts of unlicensed SEVs operating under the statutory infrequency exemption”. However, this is not the key questions for the PSED:
 - (1) Does the continuation of the current licensing policy
 - (a) help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?

⁷ This should be kept separate from the developing Cheltenham Pledge which is designed as a voluntary organisational development scheme which relies on building the desire of organisations to contribute to the safety of public spaces rather than an enforcement approach.

- (b) help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it
 - (c) help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.
- (2) Would a zero cap on SEVs:
 - (a) help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?
 - (b) help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it
 - (c) help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.
- (3) Would alternative legislation use
 - (a) help eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010?
 - (b) help advance equality of opportunity between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it
 - (c) help foster good relations between persons who share a relevant protected characteristic (such as sex, age etc) and persons who do not share it.
- c) The EIA rightly acknowledges that “the races will continue to attract large numbers of people to the town” but asserts, without evidence, this is the cause of equalities issues. A more measured approach would have been to suggest that this *may* be a causal factor. However, more deep-rootedly, this suggests an attitude underpinning the EIA that violence against women and girls is inevitable where there are large numbers of people coming to the town and that it was not conducted in line with CBCs position of working to eliminate violence against women and girls and ensure equity for protected groups.
- d) It implicitly posits that there is a paradoxical relationship between public health approaches and a zero cap which is unsupported (and unsupportable). Harm minimisation, which underpins that public health approach, may include removing access to harmful processes, services or goods.
- e) The EIA suggests (under the auspices that the choice is licensed or unregulated provision) that incidents are wholly or in the main related to ‘unlicensed’ provision. But over the last year a number of incidents have been reported at licensed SEV premises which is not acknowledged.
- f) Many of the detailed impacts are responded to through the same lens of licensed or unregulated and foundationally accept the contention by SEV business owners that they would use all possible legal loopholes to continue trading. That contention has not been tested. Furthermore, an EIA should not be written from the viewpoint of the business owner’s potential future actions but as a review of the Equalities Impacts of the current consultation (whether to maintain the current position or implement a zero cap) on behalf of the organisation conducting the EIA (CBC). This particularly applies in consideration of Age, Mental Health (where is lack of consideration of the potential impacts of greater feelings of unsafeness on mental health conditions protected under the Equality Act (2010)), Religion and Belief (which incorrectly says the issue is about ‘building use’ rather than ‘in the locality of buildings’) and Sex.

- g) In Marriage and Civil Partnership Impacts section for Lesbians and the Sexuality section for all categories, the EIA says issues are mitigated by the policy being gender neutral. Additionally, transmen and transwomen are considered twice (under Gender Reassignment and under Sex). This suggests a lack of appreciation for the differences between Sex, Gender Identity and Sexuality.
- h) It misnames VAWG (Violence Against Women and Girls) as VAGW and suggests that as less than 8% of respondents to the VAWG survey were men, this means there are no issues for men. More plausibly, it means men were not motivated to answer a survey which was directly asking about Violence Against Women and Girls.
- i) It incorrectly states that the infrequent basis exemption is for 16 days in any one year which it is actually “for longer than 24 hours, with at least a calendar month separating each occasion, and on no more than 11 occasions over a 12 month period” and assuming premises “have the required permissions (such as performance of dance and music) under the Licensing Act 2003 either by means of a Temporary Events Notice or the premises' current premises licence”. ([https://www.cheltenham.gov.uk/info/77/licences - sex establishment and sexual entertainment/921/sexual entertainment venues](https://www.cheltenham.gov.uk/info/77/licences_-_sex_establishment_and_sexual_entertainment/921/sexual_entertainment_venues))
- j) Performers are not a protected category under the Equality Act (2010). Whilst it is right that attention is paid to their protections (safeguarding, employment conditions, human rights etc.) their wider equality protections come under Sex, Race, Age and Sexuality and therefore should not be considered separately to their inclusion in these protected categories in the impacts.
- k) Furthermore, the inequity that there are no male performers in Cheltenham is not considered under “Men”.
- l) The VAWG 2023 survey did find that lesbians and, particularly, bisexual women were at greater risk of gender-based violence, this is not accurately reflected in the EIA.
- m) The Socio-Economic Factors section misrepresents the dancers as employees and the known issues around income and contradicts earlier statements in the EIA that SEVs do not, in and of themselves, constitute an attraction into the town. There is no evidence provided that people come to Cheltenham to attend a SEV rather than coming to attend the Races (as noted on p21). This section also says that there is an increased risk of ‘unregulated’ operators introducing fees and penalties; however this is standard operating practice in the sector, as evidenced by prior Licensing Applications and is not regulated or licensed under the current arrangements.
- n) There are no suggested Actions completed (including to reaffirm the current arrangements or to introduce new safeguards short of a zero cap), no Hazards identified under the Unlicensed SEVs table (p20-22) nor is the EIA email address completed.
- o) On p22, in adjacent boxes, the EIA states “There is a range of premises closure powers that, depending on the circumstances, may be used to close down unlicensed sexual entertainment premises” and “These powers could not be used to generally close unlicensed sexual entertainment venues recognising that unlicensed sexual entertainment is lawful”. Only one of these statements can be correct.
- p) On p22, the statement is made that “Unlicensed sexual entertainment venues give local communities no say or empowerment over where and how they operate”, however from the record of licensing decisions, the same is true for Licensed Sexual Entertainment Venue where repeated representations from local communities have had no impact.

19) In giving due regard to issues of locality, CBC should also align its SEV Policy with a range of other CBC Policies, Plans, Strategies and Initiatives including:

a) **Overall Cheltenham Plan and locality**

2.7 refers to safe and well-connected communities, however the presence of SEVs deters women from transversing or using such areas because of their feeling of lack of safety. Indeed, a US study found that SEV presence was “significant associated with violent crime” which increased the more prevalent SEVs were in a location (study controlled for rates of poverty and numbers of alcohol outlets in the same areas) (Hipp et al 2015)⁸. Another US study found that increasing of transient populations in urban areas erodes social cohesion and increases violence crime (Ke, O’Brien & Haydari 2021) whilst a third showed sexually oriented businesses had higher crime rates (acquisitive, violent and property crimes) near to them than other licensed alcohol venues due to the vulnerable state of sexually oriented business clients and the fact their presence attracted motivated offenders (Tewksbury & McCord 2014).

2.8 refers to increased economic output but it is not clear what economic value previous SEVs have brought in terms of:

a) *increasing people who live in the locality using the business areas* – evidence it has deterred, not increased, economic output. Additionally, the *Plan* refers to “creating socially sustainable communities” but this effect from SEV licensing makes it less likely that women, in particular, will see Cheltenham as socially sustainable.

b) *increasing visitor numbers* – the current SEVs have ‘piggybacked’ on the Races which happened before current SEVs were licensed and would still happen whether the decision was taken to apply a zero cap.

c) *increased employment in Cheltenham* – it is not clear how many (if any) local jobs have been created given that most SIA staff are contracted (usually from outside Cheltenham) and the performers are freelance and often travel long distances to work at SEVs across the country. That leaves the licensee a small number of bar staff. **At minimum, the Licensing Committee should ask applicants for an outline of how many local jobs of duration more than 5 days in any month are created by their application.**

d. *increased stable and safe employment in Cheltenham* – dancing at SEVs is recognised as being “profoundly precarious” offering no job or income security (Standing 2011) and where high numbers of women working as dancers report losing money by attending work (Sanders & Hardy 2012) due to the exploitative business model and working conditions (Hardy & Sanders 2015). In February 2023, one SEV seeking licensing stated their House Fee was £60 per evening (paid whether or not any customers are present; a higher House Fee was mentioned if performers arrive late) + 25% (cash sales) or 35% (credit card payment) of each dance + any fine under Code of Conduct (not specified) + Early Check Out Fee (if leaving before

⁸ The other study frequently cited on this issue (Ciacci & Sviatschi 2021) has been roundly critiqued and debunked for having conclusions which were not supportable by the data collected as they did not collect the necessary variable and lacked construct validity. Ciacci, R. & Sviatschi, M. (2022) “The Effect of Adult Entertainment Establishments on Sex Crime: Evidence from New York City,” *The Economic Journal*, 132(641), pp. 147–198. For a summary critique see del Pozo, B., Moskos, P., Donohue, J. & Hall, J., “Registering a proposed business reduces police stops of innocent people? Reconsidering the effects of strip clubs on sex crimes found in Ciacci & Sviatschi’s study of New York City” *Police Practice and Research*, 25(3), pp. 376–385

close of business). It is therefore easy to see how a performer could lose money by attending work (when adding in transport and potential childcare costs). **At minimum, the Licensing Committee should, on this point, ask to see a total of the House Fees + per dance fee + fines taken for each performer for each shift.**

Added to this, earnings for dancers in SEVs have been declining with a drop from £285 per shift to £232 per shift between 2008 and 2015 (Hardy & Sanders 2015). Most performers (60.3%) are unable to support themselves solely through their SEV work (Hardy & Sanders 2015). Whilst some were doing SEV work whilst studying (14.9%) most of the other work undertaken is low paid, low skilled and frequently feminized, for example retail, hospitality, modelling, administration and care or cleaning work (Hardy & Sanders 2015). Thus, SEV work can be seen to be contributing to the increasing precarity within women's employment. g) Encourage knowledge-intensive services businesses in high-value sectors – SEVs are not knowledge-intensive businesses and SE is not a high-value sector.

2.9 refers to conserving and enhancing Cheltenham's architectural, townscape and landscape heritage both within and out of the town's conservation areas – it is significantly unclear how the presence of SEVs contributes positively to this.

5.1. states that "the Council seeks to ensure that all new buildings and spaces make a positive contribution to Cheltenham and to the lives of its residents and visitors" – again it is significantly unclear how the presence of SEVs can be balanced with this positive duty particularly as 5.2 refers to "good design which also helps to create lively communities and streets and public spaces that are safe, accessible, and pleasant to use".

5.3 refers to "careful urban design [which] can contribute to a reduction in crime and anti-social behaviour". But research has shown that the presence of sexually oriented businesses are linked to around 16% higher police demand (McClearly & Meeker 2006, McCord & Tewksbury 2012).

b) Retail & Town Centre Development Plan

"Cheltenham town centre is a particularly strong retail centre which supports traditional high street stores alongside independent retailers and high-end boutiques and galleries; this forms an important element along with its heritage assets for tourism. As such, it performs within the sub-regional context and is second only to Bristol in the South West in terms of shopping choice on offer. It is important therefore that this is recognised, protected and, where possible, enhanced. Investment is ongoing, focused on bringing forward improvements to create better linkages between the High Street, Promenade and Lower High Street shopping areas". **It is unclear how licencing premises which create a feeling of unsafety for women in the Town Centre will deliver this goal. Added to which research has shown that the presence of sexually oriented businesses is associated with high rates of turnover of nearby commercial premises and a decrease in nearby business property values (McCord & Tewksbury 2012).**

c) #ILoveCheltenham 'Place Vision'

"We want Cheltenham to be a place:

- where all our people and the communities they live in thrive
- where culture and creativity thrives, is celebrated and enjoyed throughout the year
- where businesses and their workforces thrive

- where everyone thrives”

Inconsistency as noted above.

d) Purple Flag (NTE⁹) Criteria

THE POLICY ENVELOPE - An after-hours policy that shows a clear strategy based on sound research, integrated public policy and a successful multi-sector partnership.

WELLBEING - Successful destinations are all safe and welcoming with all sectors playing their part in delivering high standards of customer care.

MOVEMENT - Getting home safely after an evening out is crucial, as is the ability to move around the centre on foot with ease.

APPEAL - Successful destinations offer a vibrant choice of leisure and entertainment for a diversity of ages, groups, lifestyles and cultures.

PLACE - Successful areas are alive during the day, as well as in the evening. They contain a blend of overlapping activities that encourage people to mingle and enjoy the place. They reinforce the character and identity of the area as well as flair and imagination in urban design for the night

Inconsistency as noted above.

Dr Louise Livesey
2025

4th March

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⁹ NTE is used to differentiate the ATCM Purple Flag scheme from the NHS Purple Flag for safety of students in clinical settings.

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pp.349-360

Appendix A

CHELTENHAM BOROUGH COUNCIL STANDARD CONDITIONS REGARDING SEXUAL ENTERTAINMENT VENUES

General Conditions:

1. The premises shall only permit adult entertainment between the hours of 20:00 hours and 06:00 hours the following morning as determined by the licensing committee.
2. Only activities which have previously been agreed in writing by the Licensing Authority shall take place.
3. The agreed activities shall take place only in designated areas approved by the Licensing 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.
6. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere with the Town and 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) including any of the following ways;
 - a) by means of personal solicitation in the locality of the licensed premises
 - b) by means of leafleting in the locality
 - c) by means of externally displayed advertisement (such as on billboards or posters) in any parts of the Council's administrative area
 - d) by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

Premises

7. 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.
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 25 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.

Management & Licensee:

11. 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.
12. 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:

13. Relevant entertainment may only take place in 'designated areas' that are marked on the plan of the premises.
14. The audience must at all times remain fully-clothed.
15. 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.
16. 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 Cheltenham Borough Council (who will carry identification).
17. During any performance there must be no physical contact between the performer and any member of the viewing public. A safe distance of 90cms (36 inches) should be maintained between performers and customers during all performances.
18. No performances shall include any sexual act with other performers.
19. No performances shall include any sexual act with objects.
20. There shall be no nudity by performers in the designated 'public' areas of the premises, performers shall at all times wear at least a 'G-string' or similar piece of clothing, on the appropriate part of the body, which shall not be removed as part of the performance. The 'G-string' shall not be 'see-through'. Performers shall only perform nude in the 'private' designated area which shall be clearly marked on the plan of the premises.
21. At the completion of the dance 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.
22. 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.
23. An appropriate room shall be set aside to provide 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.
24. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.
25. Entertainers or performers not performing must not be in a licensed area in a state of undress.
26. 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.
27. Literature and contact details of organisations that provide advice and counselling on matters relating to: (a) Modern slavery, (b) Domestic abuse, (c) Coercive control, (d) Rape and sexual assault, shall be made available to performers free of charge in their changing area.

Briefing

28. 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:

29. 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.
30. 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.
31. 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.
32. 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.
33. 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:

34. A digital CCTV system shall be installed and be maintained in good working order, shall record at all times 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.
35. 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.
36. 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.)
37. No CCTV footage is to be copied, given away or sold (except as required by Police/Council for investigation/enforcement purposes).
38. 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.
39. Notices shall be displayed informing customers of the presence of CCTV.

Policy Proposals

This section of the consultation documents **outlines the proposed policy changes and amendments that the authority is specifically seeking feedback on** as part of the consultation.

About You

Name (optional): _____

Which best describes the capacity in which you are responding to this consultation **(required)**:

- ☐ A councillor/committee
- ☐ A Member of Parliament
- ☒ A resident of Cheltenham
- ☐ A resident not of Cheltenham
- ☐ A performer
- ☐ A sexual entertainment venue operator/licensee
- ☐ A customer of sexual entertainment venues in Cheltenham
- ☐ A licence holder (bars, clubs etc)
- ☐ A non-licensed/other business in Cheltenham
- ☐ A statutory body (police, OPCC, council departments, NHS etc.)
- ☐ An advocacy or other group/organisation that promotes equality or other social issues/values (i.e. VAWG, gender equality etc.)
- ☐ A support service/organisation (commissioned or otherwise)
- ☐ A religious organisation, group or body
- ☐ Other not specified (please specify): _____

3. An approach where SEVs are licensed and regulated

Generally, the authority continues to prefer an approach where SEVs are licensed and regulated rather than operating unlicensed under the infrequency exemption. This general approach is driven by:

4. Acknowledgement that there is a high probability that SEVs would continue to operate regardless of a nil limit set in policy;
5. The fact that SEVs would continue to operate unlicensed and unregulated also means the public protection and public safety risks are substantially increased.
6. Equally, unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised. Unlicensed and unregulated SEVs will likely have the opposite effect as an unregulated activity.

Question: Do you agree, or disagree, with the authority's continued preference towards licensing and regulation as opposed to SEV operating unlicensed under the infrequency exemption? (required)

- ☒ Agree
- ☐ Disagree

Please provide any further comments you wish to make in relation to your answer. **(optional)**

Yes licenced operation is more preferable to unlicensed as this will give better control for the local authority. However, licensing SEV operation must NEVER be to the detriment of the sensitive users within/adjacent/close to the proposed SEV.

Therefore, the Council should keep the Designated Area Boundary under thorough review before proposing new areas with little robust justifications.

4. A nil limit

The authority has the discretion¹⁰ to set a nil limit for licensed SEVs in any “relevant locality”. Relevant locality could be defined as the entire borough of Cheltenham or different parts within the borough.

The authority’s existing licensing policy sets two relevant localities:

8. An adopted “Designated Permitted Area” where the policy sets no limit on the number of licensed SEVs; and
9. The rest of the borough where the policy sets a nil limit.

The authority is not proposing a change to the existing two relevant localities.

The authority is of the view that the existing policy rationale for the two relevant localities remains relevant. That is that Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority’s view therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV.

Question: Do you agree, or disagree, with the authority’s proposal to maintain the existing to relevant localities and the limit(s) set for each? (required)

- ☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

The current Designated Permitted Area needs to be reviewed as it is not working. In the first instance, the boundary of the existing Designated Permitted Area should be reviewed and redrawn to AVOID/REDUCE the risk of SEVs being located near sensitive uses, which are lying at the periphery of, or within easy walking distance from, the Designated Area. Once this review/redrawing exercise is completed, then there is a better chance of implementing the Council SEV policy with the Designated Permitted Area without contradicting its own policies (under Para 12) or causing unnecessary grief to the local sensitive users.

Notable example of this policy contradiction is the licenced SEV at Cambray Place (a pedestrianised area) within the Designated Permitted Area. Allowing the continual presence of an SEV in this location makes (and will make) a mockery of the Council’s own SEV policy particularly under para 12. Cambray Baptist Church is only a few metres

¹⁰ 12(3)(c) of the Local Government (Miscellaneous Provisions) Act 1982

outside the Designated Permitted Area boundary and the church's main entrance directly faces the licensed SEV on the opposite side of the pedestrian area at Cambray Place.

We urge the Council to take this opportunity to redraw the Designated Permitted Area in this area to EXCLUDE the block of properties (including Mr Cambray Place) in the pedestrianised Cambray Place, which contains sensitive uses (residential neighbourhood, religious establishment, local shops used by children, local residents and families).

The Council should not seek to maintain the status quo as this question implies, which is not working for existing sensitive users particularly those on Cambray Place. Each SEV proposal should be determined on its own merit, even for proposals that are close (adjacent) to / within the Designated Permitted Area. This will be fairer to the local residents, and other sensitive users within/in close proximity to (but outside of) the Designated Permitted Area.

However, the authority recognises that the Designated Permitted Area within the town centre offers a more varied 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.

Within the Designated Permitted Area the town centre, the authority is proposing to set a maximum limited of two licensed SEVs.

The rationale for setting this maximum limit is based the fact that licensing history and experience has suggested two licensed SEVs are sufficient to satisfy demand for this type of licensed activity and supports the proposed "Acquired Rights" (discussed later in this consultation document) policy.

Question: Do you agree, or disagree, with the authority's proposal to set a maximum limit of two licensed SEVs within the Designated Permitted Area the town centre? (required)

- ☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

We urge the Council to take this opportunity to redraw the Designated Permitted Area in this area to EXCLUDE the block of properties (including Mr Cambray Place) in the pedestrianised Cambray Place, which contains sensitive uses (residential neighbourhood, religious establishment, local shops used by children, local residents and families).

No set limits. Each SEV proposal should be determined on its own merit, even for proposals that are close (adjacent) to but outside / within the Designated Permitted Area. This will be fairer to the local residents, and other local sensitive users within/in close proximity to (but outside) the Designated Permitted Area.

Additionally, the authority is proposing to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered.

The rationale for this is the acknowledgment that the Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area. Whilst each application is determined on its individual merits, the licensing in this proposed area has set some precedence to justify the proposed change.

Question: Do you agree, or disagree, with the authority's proposal to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered? (required)

- ☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

Before the Council wants to expand the boundary of the Designated Permitted Area, there should be a thorough review of the existing boundary to EXCLUDE premises (eg commercial properties on pedestrianised Cambray Place) that would be close to sensitive uses. By tightening the current boundary to make it fit for purpose from the perspective of the local sensitive users (as listed under Paragraph 12.1 (a to d) in the Council's own SEV Policies).

How can the current boundary be fit for purpose when an SEV licence has been granted and renewed at Cambray Place immediately opposite Cambray Baptist Church for the last two years, despite representations from the church and residents? Is this contradicting the Council's own Policy under 12.1(c)?

The Consultation document does not appear to provide any strong justification for extending the Designated Permitted Area boundary other than a minor reference to some ad hoc licences being granted in the past. An SEV license was granted at another premises based on its merit at that time. Previous SEV consent does not provide a valid reason for extending the Designated Permitted Area to include this property and other adjacent public open space, land/premises . One might speculate that if the Council owned properties (including the Municipal Offices) comes with an SEV licencing right, it may perhaps improve the any future disposal prospects?

The extended area is too large and it includes an attractive area of public open space (including Neptune's Fountain and the War Memorial) which is very popular with children and families. The extended area will also be close to the residents at Royal Crescent and Clarence Road, as well as the Ladies College (educational use).

10. Amendments to Standard Licensing Conditions

The authority is proposing to amend a number of standard licensing conditions:

Existing Condition	Change/amendment
Condition 4 - There shall not be displayed outside the premises, in the immediate	Remove – substantially addressed by condition 6 below.

<p>vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.</p>	
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 4 as stated? (required)</p> <p><input type="checkbox"/> Agree <input checked="" type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>No. It should be retained to respect the sensitive uses that are located within the Permitted Designated Area, or in its immediate vicinity (including those uses that are located a just a few metres outside the boundary of the Designated Area). Some materials including trade names, symbols and/or ad hoc marketing display materials may be inappropriate and cause offence to sensitive users including local residents, schools, and religious establishments.</p>	
<p>Condition 6 – 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.</p>	<p>Add – "...with the exception of any registered trademark, trading name or trading symbol that has been provided to the authority in connection with the most recent application for licence, its renewal or variation as the case may be."</p> <p>The authority, believes provides a reasonable balance that will:</p> <ol style="list-style-type: none"> 5. allow the greater flexibility for operators (recognising SEVs are a legitimate part of the retail and leisure industries); 6. whilst ensuring public protection and safeguarding though: 7. restricting the "exempt" advertisement content; and 8. implementing a proposed process whereby the authority will scrutinise and approve "exempt" advertisement content.
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 6 as stated? (required)</p> <p><input type="checkbox"/> Agree <input checked="" type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p>	

It is not necessary to amend Condition 6. Keep Condition 4 as is and retain Condition 6.

The Council's priority should be more concerned with the fundamental need to respect local sensitive users (as stated in Council Policy under para 12), rather than making it easy to approve SEV licences.

Conditions 22 & 26 references to "state of undress"

Replace "state of undress" with "display of nudity".

This is to provide clarity of definition.

Question: Do you agree, or disagree, with the authority's proposal to change/amend conditions 22 & 26 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Yes, but not enough. The wordings of 'no display of nudity' (Condition 22) should be TIGHTENED to include 'near nudity'.

For instance, if the entertainers/performers (while not engaging in performance) were to wear see-through flimsy garments that cover the body, is this enough to satisfy the revised condition of 'no display of nudity'?

Condition 24 - 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.

Amend condition 24 to read:

An appropriate room, or rooms, shall be set aside to provide a changing and rest area for performers. As a minimum:

- g. Access to such room(s), must be restricted to performers only and reasonable measures put in place to ensure security and exclusive use;
- h. The location of such room(s), must be marked on the plan of the premises;
- i. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary

	<p>facilities may be implemented subject to the approval of the authority;</p> <ul style="list-style-type: none"> j. Such room(s) must be fully accessible and unrestricted to performers during all times the premises is open and operating for Relevant Entertainment; k. Such room(s) must be of decent standard, including, but not limited to, general condition and safety, occupiable space, seating provision, access to free drinking water or other non-alcoholic refreshments and sufficiently heated; and l. Such room(s) should provide separate and private smoking facilities for performers. Where direct access to separate and private smoking facilities for performers is not available or practical, other arrangements for separate and private smoking facilities may be implemented subject to the approval of the authority.
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 24 as stated? (required)</p> <p><input type="checkbox"/> Agree <input checked="" type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>The amended condition 24 is too prescriptive and will have direct implications on the size (footprint) of the venue. It will not offer any flexibility to the choice of premises suitable for SEVs within the Permitted Designated Area, and could potentially be viewed by operators as unnecessary costs for only a temporary licence.</p> <p>As it stands, we think the text under current condition 24 is sufficient safeguard for the welfare of the performers and should be retained.</p>	
<p>Condition 25 - Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.</p>	<p>Partly amend to remove "Any bodily contact between entertainers or performers or" but retain "Any movement that indicates sexual activity or simulated sex between</p>

	<p>entertainers or performers is strictly forbidden.”</p> <p>This is to address a technical breach where accidental bodily contact between entertainers or performer could occur.</p>
<p>Question: Do you agree, or disagree, with the authority’s proposal to change/amend condition 25 as stated? (required)</p> <p><input type="checkbox"/> Agree <input checked="" type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>Revised Condition 25 is unclear and must also explain what constitutes ‘accidental bodily contact’ because this is very subjective. In reality, it is quite conceivable that inside the SEV, bars or nightclub environment, someone (entertainers, staff or otherwise) might ‘accidentally’ bump into or touch another person with some ulterior motives (which are sexually related).</p> <p>Unless this term ‘accidental bodily contact’ is explained in a clearly defined manner, the current text under Condition 25 should be retained.</p>	
<p>Condition 35 - 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.</p>	<p>Replace “Police Crime Reduction Officer” with “Gloucestershire Constabulary”.</p>
<p>Question: Do you agree, or disagree, with the authority’s proposal to change/amend condition 35 as stated? (required)</p> <p><input type="checkbox"/> Agree <input checked="" type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>No, the proposed text is restrictive as it could be a Police Crime Reduction Officer or Gloucestershire Constabulary, depending on availability of FUTURE resources. Can the proposed words be revised to include ‘Police Crime Reduction Officer or Police Constabulary’?</p>	

11. “Acquired Rights” Policy

The authority is proposing to adopt an “Acquired Rights” policy. Under such a proposed policy, the authority seeks to acknowledge that there are currently licenced Sexual Entertainment Venues within the borough that have been licensed for a number of years.

As such, under the proposed “Acquired Rights” policy, the authority proposes to determine that these licensed SEVs will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period. If there are any objections to an application, it will be considered by the Licensing Committee in accordance with the relevant statute.

This essentially provides acquired rights to these existing operators for the current time.

The High Court on [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#) ruled such a policy lawful if applied correctly. Such a policy would not fetter the authority’s discretion because the statutory grounds for refusal would continue to apply, and the proposed policy does not preclude objections. The implications of the proposed “Acquired Rights” policy would create a presumption in favour of renewal if there were no material change in the character of the area in the intervening period.

Question: Do you agree, or disagree, with the authority’s proposal to adopt an “Acquired Rights” Policy? (required)

- ☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (optional)

No, absolutely not! If this ‘Acquired Rights’ policy were to be adopted, it is equivalent to the removal of democratic rights of the sensitive users (listed under Council Policy para 12) to object. This is wrong.

The Acquired Rights Policy implies a presumption in favour of current licences in situ, which is unfair to the sensitive uses. Is this therefore contradicting the Council’s own policy under para 12? The Council should adhere to the policy of each proposal (for renewal) should be determined based on its own merits. No blanket approval should be given as it will lead to complacency and promote bad neighbour attitude/feelings as it is already happening.

12. Plans

The authority is seeking to strengthen the policy requirements as it relates for plans accompanying applications for SEVs. The authority acknowledges feedback from those who have engaged in the licensing process that, at times, plans accompanying applications have not been sufficiently clear, up to date and/or sufficient for the purpose of commenting on individual applications.

Section 6 of the existing policy outline the policy requirements as they relate to plans accompanying applications. Proposed changes (where in bold sections indicate the proposed changes):

5. 6.1 Replace “The plan shall be drawn at a scale of 1:100 and shall show” with **“All plans submitted must be drawn at a scale of 1:100, clearly indicate the scale and must be clear and fully legible.”**
6. Replace h) “The dressing room of performers” with **“The room(s) allocated to allow performers to rest, dress and store personal items including any bathrooms or other facilities set aside for exclusive use by performers.”**
7. **New section o) “Must clearly indicate the location, layout and sizes of all booths inside the premises used for “Relevant Entertainment””.**
8. **New section p) “All plans accompanying the application must have a clear drawn date and reference number indicated.”**

Question: Do you agree, or disagree, with the authority’s proposal to amend the policy requirements for plans to accompany applications? (required)

- ☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Yes, clear plans should be provided, similar to the requirements for planning applications/renewal of temporary permissions.

Any information submitted by the applicant must be uploaded to the Council website ready for public scrutiny and debate. This is our democratic right. The Council must continue to demonstrate openness, fairness and transparency in this respect.

13. Designated Person in Charge

The authority is proposing to implement a new requirement on applicants for SEV licenses, including subsequent/renewal applications, to clearly identify a designated person in charge.

Similar to the role of a Designated Premises Supervisor under the Licensing Act 2003, the designated person in charge will be the key person who will be responsible for the day-to-day management of the licensed SEV, including (but not limited to):

4. responsibility to ensure compliance with law and licensing conditions;
5. being available during inspections and;
6. able to respond to requests by the police or authorised officers of the council for information, evidence (i.e. CCTV footage) and/or addressing immediately issues arising from the operation of the SEV.

The designated person in charge will be specified on the licence.

Question: Do you agree, or disagree, with the authority's proposal to implement a “Designated Person in Charge” requirement? (required)

- ☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

In addition, the name of the Designated Person in Charge and the contact details should be clearly display outside the premises, so that any bad neighbour anti-social behaviour could be reported to this designated person and acted upon with minimum delay to maintain harmony within the neighbourhood.

14. Factors for consideration- Discretionary grounds (a) and (b)

The authority is proposing to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b).

This is to assist licence holders, potential licence holders, the public and the Licensing Committee with further guidance on relevant matters to consider when determining applications. Grounds (a) and (b) are:

A licence may be refused where:

- c) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;*
- d) 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 themselves.*

The proposed supplementary guidance is:

In considering the suitability of those persons referred to in (a) and (b) above, the factors the Council may take into account includes:

- relevant experience;
- relevant criminal convictions;
- whether the person has committed relevant offences;
- relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;
- relevant findings by courts and tribunals in connection with the treatment of protected groups (within the meaning of the Equality Act 2010)
- information germane to the person's ability to, among other things:
 - ensure the safety and wellbeing of performers;
 - ensure the proper protection of the public;
 - ensure the suitability of employees, performers and others using the venue;
 - prevent performance by or for those who may thereby be harmed, including minors;

- understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises; and/or
- engage constructively with the Council and other relevant regulators.

Question: Do you agree, or disagree, with the authority's proposal to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b)? (required)

- ☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Agreed, but how will this be enforced and who will be enforcing this? Is this going to rely on 'self-enforcement' (i.e. goodwill of the operator), because if it is self-enforcing, then it will not be enough or effective.

Equality Impact Assessment

In accordance with the authority's duties under the Equality Act 2010, an Equality Impact Assessment has been undertaken to inform the policy proposals outlined in this document.

As part of this consultation, the authority is seeking feedback on the Equality Impact Assessment that underpins the various policy proposals.

The Equality Impact Assessment is a separate document (to this consultation document) but forms part of the overall SEV policy consultation.

Question: Do you have any comments on the Equality Impact Assessment accompanying the proposed draft policy? (required)

- ☒ Yes
☐ No

If "Yes", please provide your comments below: (optional)

We are happy that it an equality impact assessment has been undertaken. However, we do not think it is detailed enough to identify interviews or specific case studies e.g. re impacts on Cambray Church, other sensitive uses, or local residents on Cambray Place. As it stands, the assessment looks like a very high level tick box exercise.

Policy Proposals

This section of the consultation documents **outlines the proposed policy changes and amendments that the authority is specifically seeking feedback on** as part of the consultation.

About You

Name (optional): ____ I do not consent to my personal information being shared so have chosen not to include my name _____

Which best describes the capacity in which you are responding to this consultation **(required)**:

- ☐ A councillor/committee
- ☐ A Member of Parliament
- ☒ A resident of Cheltenham
- ☐ A resident not of Cheltenham
- ☐ A performer
- ☐ A sexual entertainment venue operator/licensee
- ☐ A customer of sexual entertainment venues in Cheltenham
- ☐ A licence holder (bars, clubs etc)
- ☐ A non-licensed/other business in Cheltenham
- ☐ A statutory body (police, OPCC, council departments, NHS etc.)
- ☐ An advocacy or other group/organisation that promotes equality or other social issues/values (i.e. VAWG, gender equality etc.)
- ☐ A support service/organisation (commissioned or otherwise)
- ☐ A religious organisation, group or body
- ☐ Other not specified (please specify): _____

5. An approach where SEVs are licensed and regulated

Generally, the authority continues to prefer an approach where SEVs are licensed and regulated rather than operating unlicensed under the infrequency exemption. This general approach is driven by:

7. Acknowledgement that there is a high probability that SEVs would continue to operate regardless of a nil limit set in policy;
8. The fact that SEVs would continue to operate unlicensed and unregulated also means the public protection and public safety risks are substantially increased.
9. Equally, unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised. Unlicensed and unregulated SEVs will likely have the opposite effect as an unregulated activity.

Question: Do you agree, or disagree, with the authority's continued preference towards licensing and regulation as opposed to SEV operating unlicensed under the infrequency exemption? (required)

- ☐ Agree
- ☒ Disagree

Please provide any further comments you wish to make in relation to your answer. **(optional)**

I believe that this question conflates two issues. It is possible for Cheltenham Borough Council to set a nil limit for SEV's in Cheltenham if it chooses to do so. This is a strategic decision for the council to make as to whether it wishes strip clubs to operate in the town.

This is not the same as the day-to-day operation of the Licensing Committee who are tasked with deciding each SEV application on its merits.

Outside of race events there is no demand for strip clubs in Cheltenham, it is therefore reasonable for elected officials to assume, as a democratic mandate, that a sufficient number of residents do not want strip clubs and to base your strategic decision making on this.

We are all aware of the impact of the frequency exemption (not the infrequency exemption) and its impact in Cheltenham but this policy decision is a question for Councillors to decide their vision for Cheltenham – is it one where the council condone men's entitlement to objectify and commercially exploit women for their (men's) sexual gratification or not?

If the Council wishes Cheltenham to be a progressive town where equality matters and where women and girls are truly valued then it needs to create a vision and set of values where strip clubs are not condoned.

It seems at odd that via this consultation the council appear to have invented a new term "the infrequency exemption" to describe the "frequency exemption". The acknowledged expert on SEV licensing Philip Kolvin KC uses the term "frequency exemption". I would suggest that the council runs the risk of creating confusion by choosing to adopt terms that are not used in everyday conversation.

6. A nil limit

The authority has the discretion¹¹ to set a nil limit for licensed SEVs in any "relevant locality". Relevant locality could be defined as the entire borough of Cheltenham or different parts within the borough.

The authority's existing licensing policy sets two relevant localities:

15. An adopted "Designated Permitted Area" where the policy sets no limit on the number of licensed SEVs; and
16. The rest of the borough where the policy sets a nil limit.

The authority is not proposing a change to the existing two relevant localities.

The authority is of the view that the existing policy rationale for the two relevant localities remains relevant. That is that Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is

¹¹ 12(3)(c) of the Local Government (Miscellaneous Provisions) Act 1982

inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority's view therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV.

Question: Do you agree, or disagree, with the authority's proposal to maintain the existing to relevant localities and the limit(s) set for each? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

The challenge here is that the licensing committee has chosen to licence strip clubs outside of the DPA and also to license strip clubs within the DPA even though they are close to Churches and on the edge of residential areas.

With this in mind I'm not clear how meaningful proposed areas are when the licensing committee does not adhere to the council's adopted policy without any compelling rationale.

However, the authority recognises that the Designated Permitted Area within the town centre offers a more varied 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.

Within the Designated Permitted Area the town centre, the authority is proposing to set a maximum limited of two licensed SEVs.

The rationale for setting this maximum limit is based the fact that licensing history and experience has suggested two licensed SEVs are sufficient to satisfy demand for this type of licensed activity and supports the proposed "Acquired Rights" (discussed later in this consultation document) policy.

Question: Do you agree, or disagree, with the authority's proposal to set a maximum limit of two licensed SEVs within the Designated Permitted Area the town centre? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

I believe that the limit should be Nil, there is no demand for strip clubs outside of race events and I believe that this should guide the council's decision making.

Additionally, the authority is proposing to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered.

The rationale for this is the acknowledgment that the Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area. Whilst each application is determined on its individual merits, the licensing in this proposed area has set some precedence to justify the proposed change.

Question: Do you agree, or disagree, with the authority's proposal to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

I do not believe that the DPA should be extended. There is no justification for the council to extend this area.

17. Amendments to Standard Licensing Conditions

The authority is proposing to amend a number of standard licensing conditions:

Existing Condition	Change/amendment
Condition 4 - There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images	Remove – substantially addressed by condition 6 below.

that indicate or suggest that striptease-type dancing takes place on the premises.	
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 4 as stated? (required)</p> <p> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree </p> <p>Do you have any other comments to make in relation to this? (optional)</p>	
<p>Condition 6 – 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.</p>	<p>Add – "...with the exception of any registered trademark, trading name or trading symbol that has been provided to the authority in connection with the most recent application for licence, its renewal or variation as the case may be."</p> <p>The authority, believes provides a reasonable balance that will:</p> <ul style="list-style-type: none"> 9. allow the greater flexibility for operators (recognising SEVs are a legitimate part of the retail and leisure industries); 10. whilst ensuring public protection and safeguarding though: 11. restricting the "exempt" advertisement content; and 12. implementing a proposed process whereby the authority will scrutinise and approve "exempt" advertisement content.
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 6 as stated? (required)</p> <p> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree </p> <p>Do you have any other comments to make in relation to this? (optional)</p>	

Conditions 22 & 26 references to “state of undress”	<p>Replace “state of undress” with “display of nudity”.</p> <p>This is to provide clarity of definition.</p>
<p>Question: Do you agree, or disagree, with the authority’s proposal to change/amend conditions 22 & 26 as stated? (required)</p> <p><input type="checkbox"/> Agree <input type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>I’m unclear what this consultation is seeking to achieve with these proposed amendments - a state of undress is generally taken to mean “not fully dressed” which is not the same as a “display of nudity”.</p> <p>These clauses from Tower Hamlets appear clearer</p> <p>“Performers must remain fully dressed while on the Premises, except while performing in the sexual entertainment areas and in the changing rooms shown on the approved plan. [Without prejudice to this requirement, there is to be no display of nudity in the XXXXX of the Premises, other than during the course of a performance].</p> <p>Performers must re-dress at the conclusion of a performance”.</p>	
Condition 24 - 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.	<p>Amend condition 24 to read:</p> <p>An appropriate room, or rooms, shall be set aside to provide a changing and rest area for performers. As a minimum:</p> <ul style="list-style-type: none"> m. Access to such room(s), must be restricted to performers only and reasonable measures put in place to ensure security and exclusive use; n. The location of such room(s), must be marked on the plan of the premises; o. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary

	<p>facilities may be implemented subject to the approval of the authority;</p> <ul style="list-style-type: none"> p. Such room(s) must be fully accessible and unrestricted to performers during all times the premises is open and operating for Relevant Entertainment; q. Such room(s) must be of decent standard, including, but not limited to, general condition and safety, occupiable space, seating provision, access to free drinking water or other non-alcoholic refreshments and sufficiently heated; and r. Such room(s) should provide separate and private smoking facilities for performers. Where direct access to separate and private smoking facilities for performers is not available or practical, other arrangements for separate and private smoking facilities may be implemented subject to the approval of the authority.
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Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 24 as stated? (required)

- ☐ XAgree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Terms such as "appropriate" and "decent standard" are subjective and open to interpretation. Further clarification / definition of what the expected standards are should be provided.

<p>Condition 25 - Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.</p>	<p>Partly amend to remove “Any bodily contact between entertainers or performers or” but retain “Any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.”</p> <p>This is to address a technical breach where accidental bodily contact between entertainers or performer could occur.</p>
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 25 as stated? (required)</p> <p><input type="checkbox"/> Agree <input checked="" type="checkbox"/> X Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>I do not agree that reference to bodily contact should be removed entirely – it is possible that there could be bodily contact (which is not movement) between performers that could indicate sexual activity. I would therefore ask that the clause is reviewed and reworded to reflect this.</p> <p>Strip clubs exist purely for the sexual gratification / stimulation of its customers and so any conditions do need to bear this in mind.</p> <p>I would also suggest that the following clarification is also added –</p> <p>“Any performance shall be restricted to dancing and the removal of clothes. There must not be any other form of sexual activity, including but not limited to acts or the simulation of acts of personal stimulation”.</p>	
<p>Condition 35 - 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.</p>	<p>Replace “Police Crime Reduction Officer” with “Gloucestershire Constabulary”.</p>
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 35 as stated? (required)</p> <p><input checked="" type="checkbox"/> X Agree <input type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p>	

So long as the person providing the guidance around CCTV is competent to provide such guidance

18. “Acquired Rights” Policy

The authority is proposing to adopt an “Acquired Rights” policy. Under such a proposed policy, the authority seeks to acknowledge that there are currently licenced Sexual Entertainment Venues within the borough that have been licensed for a number of years.

As such, under the proposed “Acquired Rights” policy, the authority proposes to determine that these licensed SEVs will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period. If there are any objections to an application, it will be considered by the Licensing Committee in accordance with the relevant statute.

This essentially provides acquired rights to these existing operators for the current time.

The High Court on [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#) ruled such a policy lawful if applied correctly. Such a policy would not fetter the authority’s discretion because the statutory grounds for refusal would continue to apply, and the proposed policy does not preclude objections. The implications of the proposed “Acquired Rights” policy would create a presumption in favour of renewal if there were no material change in the character of the area in the intervening period.

Question: Do you agree, or disagree, with the authority’s proposal to adopt an “Acquired Rights” Policy? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (optional)

I do not agree with the inclusion of acquired rights on the basis that there is no demand within Cheltenham for strip clubs outside of race events. I further understand that the inclusion of acquired rights will make it more difficult for objections to be successful which I believe is undemocratic.

The clause itself is problematic in that it seems to say that if the character of the area has not changed, then licences will be renewed in any event – i.e. even if (say) the premises have been grossly mis-managed. I would hope this is not what was intended.

If such as clause is adopted it should be amended to read

“9.4 It is acknowledged that there are currently licensed Sexual Entertainment Venues within the borough that have been continuously licensed for a number of years.

9.5 It has been determined that these existing licences will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period, and no other reason not to renew them, for example breaches of conditions, etc. If there are any objections to an application to renew such a licence, it will be considered by the Licensing Committee in accordance with the relevant statute. This essentially provides acquired rights and a rebuttable presumption in favour of granting renewal applications to these existing operators for the current time.”

19. Plans

The authority is seeking to strengthen the policy requirements as it relates for plans accompanying applications for SEVs. The authority acknowledges feedback from those who have engaged in the licensing process that, at times, plans accompanying applications have not been sufficiently clear, up to date and/or sufficient for the purpose of commenting on individual applications.

Section 6 of the existing policy outline the policy requirements as they relate to plans accompanying applications. Proposed changes (where in bold sections indicate the proposed changes):

9. 6.1 Replace “The plan shall be drawn at a scale of 1:100 and shall show” with “**All plans submitted must be drawn at a scale of 1:100, clearly indicate the scale and must be clear and fully legible.**”
10. Replace h) “The dressing room of performers” with “**The room(s) allocated to allow performers to rest, dress and store personal items including any bathrooms or other facilities set aside for exclusive use by performers.**”
11. **New section o) “Must clearly indicate the location, layout and sizes of all booths inside the premises used for “Relevant Entertainment””.**
12. **New section p) “All plans accompanying the application must have a clear drawn date and reference number indicated.”**

Question: Do you agree, or disagree, with the authority’s proposal to amend the policy requirements for plans to accompany applications? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Both the licensing team and the licensing committee have long had the ability to ask for plans with these details on and have chosen to ignore concerns and queries raised multiple times by those engaging with the licensing process including me.

Unless you all chose to enforce the terms of this licensing policy then the problems you highlight above will not be resolved.

20. Designated Person in Charge

The authority is proposing to implement a new requirement on applicants for SEV licenses, including subsequent/renewal applications, to clearly identify a designated person in charge.

Similar to the role of a Designated Premises Supervisor under the Licensing Act 2003, the designated person in charge will be the key person who will be responsible for the day-to-day management of the licensed SEV, including (but not limited to):

7. responsibility to ensure compliance with law and licensing conditions;
8. being available during inspections and;
9. able to respond to requests by the police or authorised officers of the council for information, evidence (i.e. CCTV footage) and/or addressing immediately issues arising from the operation of the SEV.

The designated person in charge will be specified on the licence.

Question: Do you agree, or disagree, with the authority's proposal to implement a "Designated Person in Charge" requirement? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

21. Factors for consideration- Discretionary grounds (a) and (b)

The authority is proposing to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b).

This is to assist licence holders, potential licence holders, the public and the Licensing Committee with further guidance on relevant matters to consider when determining applications. Grounds (a) and (b) are:

A licence may be refused where:

- e) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;*
- f) 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 themselves.*

The proposed supplementary guidance is:

In considering the suitability of those persons referred to in (a) and (b) above, the factors the Council may take into account includes:

- relevant experience;
- relevant criminal convictions;
- whether the person has committed relevant offences;
- relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;
- relevant findings by courts and tribunals in connection with the treatment of protected groups (within the meaning of the Equality Act 2010)
- information germane to the person's ability to, among other things:
 - ensure the safety and wellbeing of performers;
 - ensure the proper protection of the public;
 - ensure the suitability of employees, performers and others using the venue;
 - prevent performance by or for those who may thereby be harmed, including minors;
 - understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises; and/or
 - engage constructively with the Council and other relevant regulators.

Question: Do you agree, or disagree, with the authority's proposal to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b)? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Why not include having an enhanced DBS? (this might include any warnings that have been issued to the persons but which are not a criminal conviction)

What do you consider to be a relevant conviction?

Equality Impact Assessment

In accordance with the authority's duties under the Equality Act 2010, an Equality Impact Assessment has been undertaken to inform the policy proposals outlined in this document.

As part of this consultation, the authority is seeking feedback on the Equality Impact Assessment that underpins the various policy proposals.

The Equality Impact Assessment is a separate document (to this consultation document) but forms part of the overall SEV policy consultation.

Question: Do you have any comments on the Equality Impact Assessment accompanying the proposed draft policy? (required)

☐ Yes

☐ X No

If "Yes", please provide your comments below: (optional)

I don't believe that the EIA adequately covers sex-based concerns of women either in the vicinity of the club or more widely in society which is required per the Bournemouth judicial review.

Policy Proposals

This section of the consultation documents **outlines the proposed policy changes and amendments that the authority is specifically seeking feedback on** as part of the consultation.

About You

Name (optional): **EUROPEAN EVENTS CONSULTANTS LTD**

Which best describes the capacity in which you are responding to this consultation **(required)**:

- ☐ A councillor/committee
- ☐ A Member of Parliament
- ☐ A resident of Cheltenham
- ☐ A resident not of Cheltenham
- ☐ A performer
- ☒ A sexual entertainment venue operator/licensee
- ☐ A customer of sexual entertainment venues in Cheltenham
- ☐ A licence holder (bars, clubs etc)
- ☐ A non-licensed/other business in Cheltenham
- ☐ A statutory body (police, OPCC, council departments, NHS etc.)
- ☐ An advocacy or other group/organisation that promotes equality or other social issues/values (i.e. VAWG, gender equality etc.)
- ☐ A support service/organisation (commissioned or otherwise)
- ☐ A religious organisation, group or body
- ☐ Other not specified (please specify): _____

7. An approach where SEVs are licensed and regulated

Generally, the authority continues to prefer an approach where SEVs are licensed and regulated rather than operating unlicensed under the infrequency exemption. This general approach is driven by:

10. Acknowledgement that there is a high probability that SEVs would continue to operate regardless of a nil limit set in policy;
11. The fact that SEVs would continue to operate unlicensed and unregulated also means the public protection and public safety risks are substantially increased.
12. Equally, unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised. Unlicensed and unregulated SEVs will likely have the opposite effect as an unregulated activity.

Question: Do you agree, or disagree, with the authority's continued preference towards licensing and regulation as opposed to SEV operating unlicensed under the infrequency exemption? (required)

- ☒ Agree
- ☐ Disagree

Please provide any further comments you wish to make in relation to your answer. **(optional)**

Licensed and regulated SEV's mean that there are robust conditions and rules which operators must comply with and this in turn helps to maintain high standards of operation.

SEVs which operate under the infrequency exemption are no subject to the same rigorous standards and as such the risk to public protection and public safety is far greater when SEV activity is unregulated.

The SEV renewal process means that licensed operators are subject to robust checks at each renewal.

The transparency of licensed SEV operation means that that the authorities are able to have meaningful dialogue with operators prior to and after operating periods of the SEVs which again aids safe and responsible operation.

8. A nil limit

The authority has the discretion¹² to set a nil limit for licensed SEVs in any “relevant locality”. Relevant locality could be defined as the entire borough of Cheltenham or different parts within the borough.

The authority's existing licensing policy sets two relevant localities:

22. An adopted “Designated Permitted Area” where the policy sets no limit on the number of licensed SEVs; and
23. The rest of the borough where the policy sets a nil limit.

The authority is not proposing a change to the existing two relevant localities.

The authority is of the view that the existing policy rationale for the two relevant localities remains relevant. That is that Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority's view therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV.

Question: Do you agree, or disagree, with the authority's proposal to maintain the existing to relevant localities and the limit(s) set for each? (required)

- ☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

¹² 12(3)(c) of the Local Government (Miscellaneous Provisions) Act 1982

Keeping SEVs within designated night economy area is a sensible approach taking into account that the SEV businesses form part of the wide mix of venues available to the public.

However, the authority recognises that the Designated Permitted Area within the town centre offers a more varied 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.

Within the Designated Permitted Area the town centre, the authority is proposing to set a maximum limited of two licensed SEVs.

The rationale for setting this maximum limit is based the fact that licensing history and experience has suggested two licensed SEVs are sufficient to satisfy demand for this type of licensed activity and supports the proposed “Acquired Rights” (discussed later in this consultation document) policy.

Question: Do you agree, or disagree, with the authority’s proposal to set a maximum limit of two licensed SEVs within the Designated Permitted Area the town centre? (required)

- ☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

The historic trading information from our operational experience shows that 2 SEV venues are sufficient for demand within the nighttime economy during the event periods with the two existing venues serving two clear and separate locations within the night time economy zone. Meaning that the venues can operate discreetly without the town centre becoming saturated with licensed SEV operations.

Additionally, the authority is proposing to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered.

The rationale for this is the acknowledgment that the Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area. Whilst each application is determined on its individual merits, the licensing in this proposed area has set some precedence to justify the proposed change.

Question: Do you agree, or disagree, with the authority's proposal to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

The additional area the Council has identified as being an area to incorporate into the Designated Permitted Area is within the established nighttime economy area of Cheltenham. The Licensing Committee has consistently granted us the SEV licence in this location despite it falling outside the designated area and as such has set some precedence to justify the proposed change.

24. Amendments to Standard Licensing Conditions

The authority is proposing to amend a number of standard licensing conditions:

Existing Condition	Change/amendment
Condition 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.	Remove – substantially addressed by condition 6 below.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 4 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

No comment

Condition 6 – 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.

Add – "...with the exception of any registered trademark, trading name or trading symbol that has been provided to the authority in connection with the most recent application for licence, its renewal or variation as the case may be."

The authority, believes provides a reasonable balance that will:

13. allow the greater flexibility for operators (recognising SEVs are a legitimate part of the retail and leisure industries);
14. whilst ensuring public protection and safeguarding through:
15. restricting the "exempt" advertisement content; and
16. implementing a proposed process whereby the authority will scrutinise and approve "exempt" advertisement content.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 6 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

We have a query as to whether the rest of the wording condition 6 is also to remain as this is unclear from the above information given.

As an operator we have to vary condition 6 at each renewal application for the condition to read as follows:

"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) by means of externally displayed advertisement (such as on billboards or posters) within the Authority's administrative area.

The Licensee is allowed to solicit individuals to attend the premises during the hours the licence is in operation, provided that no solicitation takes place to anyone who appears to be under the age of 25.

The Licensee is allowed to operate a courtesy vehicle to transport dancers and clientele to and from the venue at all times. Further to be allowed to advertise, including by way of leaflets, the courtesy vehicle at all times during the permitted licence hours. No music will be played that can be heard from outside the vehicle. The use of the name 'Eroticats' is permitted."

The use of the Courtesy vehicle has been an accepted practice for a number of years and the Licensing Committee has heard over the years how the courtesy vehicle is an important part of ensuring safety for performers and customers. Is the Council giving any consideration as to whether this condition will still be required to be varied at each renewal application, or can it provide clarity that where a standard condition has been amended to take into account the specific operation of a particular venue that it is the varied version of that condition that will be subject to the renewal process.

Conditions 22 & 26 references to "state of undress"

Replace "state of undress" with "display of nudity".

This is to provide clarity of definition.

Question: Do you agree, or disagree, with the authority's proposal to change/amend conditions 22 & 26 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

What would be required is a definition of what nudity means to ensure that as an operator this provides clarity in respect of the requirement of the condition which in turn assists with compliance and regulation.

Condition 24 - 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.

Amend condition 24 to read:

An appropriate room, or rooms, shall be set aside to provide a changing and rest area for performers. As a minimum:

- s. Access to such room(s), must be restricted to performers only and reasonable measures put in place to ensure security and exclusive use;
- t. The location of such room(s), must be marked on the plan of the premises;
- u. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary facilities may be implemented subject to the approval of the authority;
- v. Such room(s) must be fully accessible and unrestricted to performers during all times the premises is open and operating for Relevant Entertainment;
- w. Such room(s) must be of decent standard, including, but not limited to, general condition and safety, occupiable space, seating provision, access to free drinking water or other non-alcoholic refreshments and sufficiently heated; and
- x. Such room(s) should provide separate and private smoking facilities for performers. Where direct access to separate and private smoking facilities for performers is not available or practical, other arrangements for separate and private smoking facilities may be implemented subject to the approval of the authority.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 24 as stated? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (optional)

Disagree only in respect of the below proposed condition wording.

"c. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary facilities may be implemented subject to the approval of the authority;"

Regarding separate and private sanitary provisions being exclusively available for performers, due to our premises being licensed for only a limited number of days in a year, and not purpose built SEV venues, it would not be possible for separate sanitary provisions for exclusive use by performers to be provided. We operate single sex sanitary provisions at this venue with female toilets being private cubicles.

The performers have used the current sanitary provisions at the SEV licensed venue with no issues or concerns raised to us as an operator by authorities or performers. No evidence has been provided within the consultation document to suggest any issues or support the rationale for this change to the policy.

We refer to the Regulators Code: <https://www.gov.uk/government/publications/regulators-code>

"Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best: • understand and minimise negative economic impacts of their regulatory activities; • minimising the costs of compliance for those they regulate; • improve confidence in compliance for those they regulate, by providing greater certainty; and • encourage and promote compliance."

If the existing sanitary provisions were to be demarcated for exclusive use of performers, then then the operators would be in a position of not being able to provide sufficient sanitary provision for female customers for example and this would create an equality issue in respect of female customers not being able to access our venues. There is no option for creating alternative separate sanitary provisions for exclusive use by performers due to the layout of the building, so any changes, even if temporary, would come at a huge cost burden.

Implementing this condition (c) would effectively prevent the operator from being able to operate the venue as a licensed SEV venue at Under The Prom as there is no ability to create a whole set of sanitary provisions for the limited SEV trade period within the building that is licensed.

As an alternative the council could consider requiring that operators have a policy in place for managing and monitoring the sanitary provisions for performers. This would be a less burdensome method of regulation.

Condition 25 - Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.

Partly amend to remove "Any bodily contact between entertainers or performers or" **but retain** "Any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden."

This is to address a technical breach where accidental bodily contact between entertainers or performer could occur.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 25 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

This provides much needed clarity in respect of the intention of the condition and assists both operators and authorities in enforcing conditions where the meaning is clear.

Condition 35 - 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.

Replace "Police Crime Reduction Officer" with "Gloucestershire Constabulary".

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 35 as stated? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (optional)

In order to ensure consistent application of this condition we would suggest that the replacement wording is "A Licensing Inspector of Gloucestershire Constabulary". The Rationale being that it would need to be an officer of sufficient authority to have the knowledge and understanding of the licensed venue and the SEV operation that would recommend any CCTV requirements.

25. "Acquired Rights" Policy

The authority is proposing to adopt an "Acquired Rights" policy. Under such a proposed policy, the authority seeks to acknowledge that there are currently licenced Sexual Entertainment Venues within the borough that have been licensed for a number of years.

As such, under the proposed "Acquired Rights" policy, the authority proposes to determine that these licensed SEVs will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period. If there are any objections to an application, it will be considered by the Licensing Committee in accordance with the relevant statute.

This essentially provides acquired rights to these existing operators for the current time.

The High Court on [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#) ruled such a policy lawful if applied correctly. Such a policy would not fetter the authority's discretion because the statutory grounds for refusal would continue to apply, and the proposed policy does not preclude objections. The implications of the proposed "Acquired Rights" policy would create a presumption in favour of renewal if there were no material change in the character of the area in the intervening period.

Question: Do you agree, or disagree, with the authority's proposal to adopt an "Acquired Rights" Policy? (required)

☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

The Acquired Rights Policy is important so that due weight is given to the fact that the existing operators have held licence for a number of years especially where that operator has a history of good compliance.

26. Plans

The authority is seeking to strengthen the policy requirements as it relates for plans accompanying applications for SEVs. The authority acknowledges feedback from those who have engaged in the licensing process that, at times, plans accompanying applications have not been sufficiently clear, up to date and/or sufficient for the purpose of commenting on individual applications.

Section 6 of the existing policy outline the policy requirements as they relate to plans accompanying applications. Proposed changes (where in bold sections indicate the proposed changes):

13. 6.1 Replace “The plan shall be drawn at a scale of 1:100 and shall show” with **“All plans submitted must be drawn at a scale of 1:100, clearly indicate the scale and must be clear and fully legible.”**
14. Replace h) “The dressing room of performers” with **“The room(s) allocated to allow performers to rest, dress and store personal items including any bathrooms or other facilities set aside for exclusive use by performers.”**
15. **New section o) “Must clearly indicate the location, layout and sizes of all booths inside the premises used for “Relevant Entertainment””.**
16. **New section p) “All plans accompanying the application must have a clear drawn date and reference number indicated.”**

Question: Do you agree, or disagree, with the authority’s proposal to amend the policy requirements for plans to accompany applications? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (optional)

We disagree with showing any bathrooms set aside for exclusive use by performers for the reasons given to part 3 – ‘amendment to licensing conditions’

Setting specific booth size information to be shown on the layout plans for a venue that is only used on a limited number of days per year and where the size of the booth can have minor

fluctuations dependant on the type of demarcation used year on year could lead to significant administrative burden. Even if the measurements change by only by a couple of mm, this would mean a variation of the SEV licence. This would lead to a huge cost burden for the operator due to professional fees, council fees , newspapers fees and the fees associate to the cost of a hearing. There are also significant time constraints due to the venue set up only being completed within a short period prior to the event days which means not enough time to issue a variation application and will lead to it being difficult for the operator to be compliant.

No evidence has been provided within the consultation to support the rationale for having booth sizes stated upon the licence plans.

The Regulators Code as stated above should be taken into consideration:

<https://assets.publishing.service.gov.uk/media/5f4e14e2e90e071c745ff2df/14-705-regulators-code.pdf>

The Regulators Code states that Regulators should encourage and promote compliance – adding in a further plans requirement with no administrative pathway for making minimal changes to plans where there are small changes is at odds with this.

27. Designated Person in Charge

The authority is proposing to implement a new requirement on applicants for SEV licenses, including subsequent/renewal applications, to clearly identify a designated person in charge.

Similar to the role of a Designated Premises Supervisor under the Licensing Act 2003, the designated person in charge will be the key person who will be responsible for the day-to-day management of the licensed SEV, including (but not limited to):

10. responsibility to ensure compliance with law and licensing conditions;
11. being available during inspections and;
12. able to respond to requests by the police or authorised officers of the council for information, evidence (i.e. CCTV footage) and/or addressing immediately issues arising from the operation of the SEV.

The designated person in charge will be specified on the licence.

Question: Do you agree, or disagree, with the authority's proposal to implement a "Designated Person in Charge" requirement? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (optional)

We agree that having a Designated Person is a sensible approach, however we disagree that the designated person in charge should be specified on the licence. This would mean that should we be required to change the Designated Person, a variation of the SEV licence may be required and this would create an overly burdensome requirement for an application, with the associated application fee, newspaper advert fee and potential for a hearing being required. It would also leave operator open to noncompliance if a change of Designated Person is needed with short notice. This is at odds with the regulators code.

We suggest that the Designated Person be notified in writing to the Licensing Authority and Police and maintained on the operators record. This can then be updated if the Designated Person changes by communication being sent to the Licensing Authority and Police.

We would suggest that if the Council required the Designated Person to be named on the licence that if this needs to be changed at any point, the update to the named person must be able to be changed by way of a simple administrative notification to the Licensing Authority and Police without the requirement for a full variation of the SEV licence and that any administrative fee be carefully considered so as not to be a significant cost burden to operators.

28. Factors for consideration- Discretionary grounds (a) and (b)

The authority is proposing to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b).

This is to assist licence holders, potential licence holders, the public and the Licensing Committee with further guidance on relevant matters to consider when determining applications. Grounds (a) and (b) are:

A licence may be refused where:

- g) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;*
- h) 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 themselves.*

The proposed supplementary guidance is:

In considering the suitability of those persons referred to in (a) and (b) above, the factors the Council may take into account includes:

- relevant experience;
- relevant criminal convictions;
- whether the person has committed relevant offences;
- relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;
- relevant findings by courts and tribunals in connection with the treatment of protected groups (within the meaning of the Equality Act 2010)
- information germane to the person's ability to, among other things:
 - ensure the safety and wellbeing of performers;
 - ensure the proper protection of the public;
 - ensure the suitability of employees, performers and others using the venue;
 - prevent performance by or for those who may thereby be harmed, including minors;
 - understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises; and/or
 - engage constructively with the Council and other relevant regulators.

Question: Do you agree, or disagree, with the authority's proposal to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b)? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

No comment

Equality Impact Assessment

In accordance with the authority's duties under the Equality Act 2010, an Equality Impact Assessment has been undertaken to inform the policy proposals outlined in this document.

As part of this consultation, the authority is seeking feedback on the Equality Impact Assessment that underpins the various policy proposals.

The Equality Impact Assessment is a separate document (to this consultation document) but forms part of the overall SEV policy consultation.

Question: Do you have any comments on the Equality Impact Assessment accompanying the proposed draft policy? (required)

☐ Yes

☒ No

If "Yes", please provide your comments below: (optional)

No comment

Policy Proposals

This section of the consultation documents **outlines the proposed policy changes and amendments that the authority is specifically seeking feedback on** as part of the consultation.

About You

Name (optional): **_RED APPLE ASSOCIATES LTD**

Which best describes the capacity in which you are responding to this consultation **(required)**:

- ☐ A councillor/committee
- ☐ A Member of Parliament
- ☐ A resident of Cheltenham
- ☐ A resident not of Cheltenham
- ☐ A performer
- ☒ A sexual entertainment venue operator/licensee
- ☐ A customer of sexual entertainment venues in Cheltenham
- ☐ A licence holder (bars, clubs etc)
- ☐ A non-licensed/other business in Cheltenham
- ☐ A statutory body (police, OPCC, council departments, NHS etc.)
- ☐ An advocacy or other group/organisation that promotes equality or other social issues/values (i.e. VAWG, gender equality etc.)
- ☐ A support service/organisation (commissioned or otherwise)
- ☐ A religious organisation, group or body
- ☐ Other not specified (please specify): _____

9. An approach where SEVs are licensed and regulated

Generally, the authority continues to prefer an approach where SEVs are licensed and regulated rather than operating unlicensed under the infrequency exemption. This general approach is driven by:

13. Acknowledgement that there is a high probability that SEVs would continue to operate regardless of a nil limit set in policy;
14. The fact that SEVs would continue to operate unlicensed and unregulated also means the public protection and public safety risks are substantially increased.
15. Equally, unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised. Unlicensed and unregulated SEVs will likely have the opposite effect as an unregulated activity.

Question: Do you agree, or disagree, with the authority's continued preference towards licensing and regulation as opposed to SEV operating unlicensed under the infrequency exemption? (required)

- ☒ Agree
- ☐ Disagree

Please provide any further comments you wish to make in relation to your answer. **(optional)**

Licensed and regulated SEV's mean that there are robust conditions and rules which operators must comply with and this in turn helps to maintain high standards of operation.

SEVs which operate under the infrequency exemption are not subject to the same rigorous standards and as such the risk to public protection and public safety is far greater when SEV activity is unregulated.

The SEV renewal process means that licensed operators are subject to robust checks at each renewal.

The transparency of licensed SEV operation means that the authorities are able to have meaningful dialogue with operators prior to and after operating periods of the SEVs which again aids safe and responsible operation.

10. A nil limit

The authority has the discretion¹³ to set a nil limit for licensed SEVs in any “relevant locality”. Relevant locality could be defined as the entire borough of Cheltenham or different parts within the borough.

The authority’s existing licensing policy sets two relevant localities:

- 29. An adopted “Designated Permitted Area” where the policy sets no limit on the number of licensed SEVs; and
- 30. The rest of the borough where the policy sets a nil limit.

The authority is not proposing a change to the existing two relevant localities.

The authority is of the view that the existing policy rationale for the two relevant localities remains relevant. That is that Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority’s view therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV.

Question: Do you agree, or disagree, with the authority’s proposal to maintain the existing two relevant localities and the limit(s) set for each? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

¹³ 12(3)(c) of the Local Government (Miscellaneous Provisions) Act 1982

Keeping SEV within designated night economy area is a sensible approach taking into account that the SEV businesses form part of the wide mix of venues available to the public.

However, the authority recognises that the Designated Permitted Area within the town centre offers a more varied 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.

Within the Designated Permitted Area the town centre, the authority is proposing to set a maximum limited of two licensed SEVs.

The rationale for setting this maximum limit is based the fact that licensing history and experience has suggested two licensed SEVs are sufficient to satisfy demand for this type of licensed activity and supports the proposed “Acquired Rights” (discussed later in this consultation document) policy.

Question: Do you agree, or disagree, with the authority’s proposal to set a maximum limit of two licensed SEVs within the Designated Permitted Area the town centre? (required)

- ☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

The historic trading information from our operational experience shows that 2 SEV venues are sufficient for demand within the nighttime economy during the event periods with the two existing venues serving two clear and separate locations within the night time economy zone. Meaning that the venues can operate discreetly without the town centre becoming saturated with licensed SEV operations.

Additionally, the authority is proposing to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered.

The rationale for this is the acknowledgment that the Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area. Whilst each application is determined on its individual merits, the licensing in this proposed area has set some precedence to justify the proposed change.

Question: Do you agree, or disagree, with the authority's proposal to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

The additional area the Council has identified as being an area to incorporate into the Designated Permitted Area is within the established nighttime economy area of Cheltenham. The Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area and as such has set some precedence to justify the proposed change.

31. Amendments to Standard Licensing Conditions

The authority is proposing to amend a number of standard licensing conditions:

Existing Condition	Change/amendment
Condition 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.	Remove – substantially addressed by condition 6 below.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 4 as stated? (required)

☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

No comment

Condition 6 – 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.

Add – "...with the exception of any registered trademark, trading name or trading symbol that has been provided to the authority in connection with the most recent application for licence, its renewal or variation as the case may be."

The authority, believes provides a reasonable balance that will:

17. allow the greater flexibility for operators (recognising SEVs are a legitimate part of the retail and leisure industries);
18. whilst ensuring public protection and safeguarding though:
19. restricting the "exempt" advertisement content; and
20. implementing a proposed process whereby the authority will scrutinise and approve "exempt" advertisement content.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 6 as stated? (required)

☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

We have a query as to whether the rest of the wording condition 6 is also to remain as this is unclear from the above information given.

As an operator we have to vary condition 6 at each renewal application for the condition to read as follows:

"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) by

means of externally displayed advertisement (such as on billboards or posters) within the Authority's administrative area.

The Licensee is allowed to solicit individuals to attend the premises during the hours the licence is in operation, provided that no solicitation takes place to anyone who appears to be under the age of 25.

The Licensee is allowed to operate a courtesy vehicle to transport dancers and clientele to and from the venue at all times. Further to be allowed to advertise, including by way of leaflets, the courtesy vehicle at all times during the permitted licence hours. No music will be played that can be heard from outside the vehicle. The use of the name 'Eroticats' is permitted."

The use of the Courtesy vehicle has been an accepted practice for a number of years and the Licensing Committee has heard over the years how the courtesy vehicle is an important part of ensuring safety for performers and customers. Is the Council giving any consideration as to whether this condition will still be required to be varied at each renewal application, or can it provide clarity that where a standard condition has been amended to take into account the specific operation of a particular venue that it is the varied version of that condition that will be subject to the renewal process.

Conditions 22 & 26 references to "state of undress"

Replace "state of undress" with "display of nudity".

This is to provide clarity of definition.

Question: Do you agree, or disagree, with the authority's proposal to change/amend conditions 22 & 26 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

What would be required is a definition of what nudity means to ensure that as an operator this provides clarity in respect of the requirement of the condition which in turn assists with compliance and regulation.

Condition 24 - 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.

Amend condition 24 to read:

An appropriate room, or rooms, shall be set aside to provide a changing and rest area for performers. As a minimum:

- y. Access to such room(s), must be restricted to performers only and reasonable measures put in place to ensure security and exclusive use;
- z. The location of such room(s), must be marked on the plan of the premises;
- aa. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary facilities may be implemented subject to the approval of the authority;
- bb. Such room(s) must be fully accessible and unrestricted to performers during all times the premises is open and operating for Relevant Entertainment;
- cc. Such room(s) must be of decent standard, including, but not limited to, general condition and safety, occupiable space, seating provision, access to free drinking water or other non-alcoholic refreshments and sufficiently heated; and
- dd. Such room(s) should provide separate and private smoking facilities for performers. Where direct access to separate and private smoking facilities for performers is not available or practical, other arrangements for separate and private smoking facilities may be implemented subject to the approval of the authority.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 24 as stated? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (optional)

Disagree only in respect of the below proposed condition wording.

"c. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary facilities may be implemented subject to the approval of the authority;"

Regarding separate and private sanitary provisions being exclusively available for performers, due to our premises being licensed for only a limited number of days in a year, and not purpose built SEV venues, it would not be possible for separate sanitary provisions for exclusive use by performers to be provided. We operate single sex sanitary provisions at this venue with female toilets being private cubicles.

The performers have used the current sanitary provisions at the SEV licensed venue with no issues or concerns raised to us as an operator by authorities or performers. No evidence has been provided within the consultation document to suggest any issues or support the rationale for this change to the policy.

We refer to the Regulators Code: <https://www.gov.uk/government/publications/regulators-code>

"Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best: • understand and minimise negative economic impacts of their regulatory activities; • minimising the costs of compliance for those they regulate; • improve confidence in compliance for those they regulate, by providing greater certainty; and • encourage and promote compliance."

If the existing sanitary provisions were to be demarcated for exclusive use of performers, then then the operators would be in a position of not being able to provide sufficient sanitary provision for female customers for example and this would create an equality issue in respect of female customers not being able to access our venues. There is no option for creating alternative separate sanitary provisions for exclusive use by performers due to the layout of the building and it is also a listed building, so any changes, even if temporary, would come at a huge cost burden.

Implementing this condition (c) would effectively prevent the operator from being able to operate the venue as a licensed SEV venue at Jessop House Cambray Place as there is no ability to create a whole set of sanitary provisions for the limited SEV trade period within the building that is licensed.

As an alternative the council could consider requiring that operators have a policy in place for managing and monitoring the sanitary provisions for performers. This would be a less burdensome method of regulation.

Condition 25 - Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.

Partly amend to remove "Any bodily contact between entertainers or performers or" **but retain** "Any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden."

This is to address a technical breach where accidental bodily contact between entertainers or performer could occur.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 25 as stated? (required)

☒ Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

This provides much needed clarity in respect of the intention of the condition and assists both operators and authorities in enforcing conditions where the meaning is clear.

Condition 35 - 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.

Replace "Police Crime Reduction Officer" with "Gloucestershire Constabulary".

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 35 as stated? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (optional)

In order to ensure consistent application of this condition we would suggest that the replacement wording is "A Licensing Inspector of Gloucestershire Constabulary". The Rationale being that it would need to be an officer of sufficient authority to have the knowledge and understanding of the licensed venue and the SEV operation that would recommend any CCTV requirements.

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The authority is proposing to adopt an "Acquired Rights" policy. Under such a proposed policy, the authority seeks to acknowledge that there are currently licenced Sexual Entertainment Venues within the borough that have been licensed for a number of years.

As such, under the proposed "Acquired Rights" policy, the authority proposes to determine that these licensed SEVs will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period. If there are any objections to an application, it will be considered by the Licensing Committee in accordance with the relevant statute.

This essentially provides acquired rights to these existing operators for the current time.

The High Court on [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#) ruled such a policy lawful if applied correctly. Such a policy would not fetter the authority's discretion because the statutory grounds for refusal would continue to apply, and the proposed policy does not preclude objections. The implications of the proposed "Acquired Rights" policy would create a presumption in favour of renewal if there were no material change in the character of the area in the intervening period.

Question: Do you agree, or disagree, with the authority's proposal to adopt an "Acquired Rights" Policy? (required)

☒ Agree
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Do you have any other comments to make in relation to this? (optional)

The Acquired Rights Policy is important so that due weight is given to the fact that the existing operators have held licence for a number of years especially where that operator has a history of good compliance.

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18. Replace h) “The dressing room of performers” with **“The room(s) allocated to allow performers to rest, dress and store personal items including any bathrooms or other facilities set aside for exclusive use by performers.”**
19. **New section o) “Must clearly indicate the location, layout and sizes of all booths inside the premises used for “Relevant Entertainment””.**
20. **New section p) “All plans accompanying the application must have a clear drawn date and reference number indicated.”**

Question: Do you agree, or disagree, with the authority’s proposal to amend the policy requirements for plans to accompany applications? (required)

☐ Agree
☒ Disagree

Do you have any other comments to make in relation to this? (optional)

We disagree with showing any bathrooms set aside for exclusive use by performers for the reasons given to part 3 – ‘amendment to licensing conditions’

Setting specific booth size information to be shown on the layout plans for a venue that is only used on a limited number of days per year and where the size of the booth can have minor fluctuations dependant on the type of demarcation used year on year could lead to significant

administrative burden. Even if the measurements change by only by a couple of mm, this would mean a variation of the SEV licence. This would lead to a huge cost burden for the operator due to professional fees, council fees , newspapers fees and the fees associate to the cost of a hearing. There are also significant time constraints due to the venue set up only being completed within a short period prior to the event days which means not enough time to issue a variation application and will lead to it being difficult for the operator to be compliant.

No evidence has been provided within the consultation to support the rationale for having booth sizes stated upon the licence plans.

The Regulators Code as stated above should be taken into consideration:

<https://assets.publishing.service.gov.uk/media/5f4e14e2e90e071c745ff2df/14-705-regulators-code.pdf>

The Regulators Code states that Regulators should encourage and promote compliance – adding in a further plans requirement with no administrative pathway for making minimal changes to plans where there are small changes is at odds with this.

34. Designated Person in Charge

The authority is proposing to implement a new requirement on applicants for SEV licenses, including subsequent/renewal applications, to clearly identify a designated person in charge.

Similar to the role of a Designated Premises Supervisor under the Licensing Act 2003, the designated person in charge will be the key person who will be responsible for the day-to-day management of the licensed SEV, including (but not limited to):

- 13. responsibility to ensure compliance with law and licensing conditions;
- 14. being available during inspections and;
- 15. able to respond to requests by the police or authorised officers of the council for information, evidence (i.e. CCTV footage) and/or addressing immediately issues arising from the operation of the SEV.

The designated person in charge will be specified on the licence.

Question: Do you agree, or disagree, with the authority's proposal to implement a "Designated Person in Charge" requirement? (required)

☐ Agree

x Disagree

Do you have any other comments to make in relation to this? (optional)

We agree that having a Designated Person is a sensible approach, however we disagree that the designated person in charge should be specified on the licence. This would mean that should we be required to change the Designated Person, a variation of the SEV licence may be required and this would create an overly burdensome requirement for an application, with the associated application fee, newspaper advert fee and potential for a hearing being required. It would also leave operator open to noncompliance if a change of Designated Person is needed with short notice. This is at odds with the regulators code.

We suggest that the Designated Person be notified in writing to the Licensing Authority and Police and maintained on the operators record. This can then be updated if the Designated Person changes by communication being sent to the Licensing Authority and Police.

We would suggest that if the Council required the Designated Person to be named on the licence that if this needs to be changed at any point, the update to the named person must be able to be changed by way of a simple administrative notification to the Licensing Authority and Police without the requirement for a full variation of the SEV licence and that any administrative fee be carefully considered so as not to be a significant cost burden to operators.

35. Factors for consideration- Discretionary grounds (a) and (b)

The authority is proposing to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b).

This is to assist licence holders, potential licence holders, the public and the Licensing Committee with further guidance on relevant matters to consider when determining applications. Grounds (a) and (b) are:

A licence may be refused where:

- i) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;*
- j) 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 themselves.*

The proposed supplementary guidance is:

In considering the suitability of those persons referred to in (a) and (b) above, the factors the Council may take into account includes:

- relevant experience;
- relevant criminal convictions;
- whether the person has committed relevant offences;
- relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;
- relevant findings by courts and tribunals in connection with the treatment of protected groups (within the meaning of the Equality Act 2010)
- information germane to the person's ability to, among other things:
 - ensure the safety and wellbeing of performers;
 - ensure the proper protection of the public;
 - ensure the suitability of employees, performers and others using the venue;
 - prevent performance by or for those who may thereby be harmed, including minors;
 - understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises; and/or
 - engage constructively with the Council and other relevant regulators.

Question: Do you agree, or disagree, with the authority's proposal to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b)? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

No comment

Equality Impact Assessment

In accordance with the authority's duties under the Equality Act 2010, an Equality Impact Assessment has been undertaken to inform the policy proposals outlined in this document.

As part of this consultation, the authority is seeking feedback on the Equality Impact Assessment that underpins the various policy proposals.

The Equality Impact Assessment is a separate document (to this consultation document) but forms part of the overall SEV policy consultation.

Question: Do you have any comments on the Equality Impact Assessment accompanying the proposed draft policy? (required)

☐ Yes

☒ No

If "Yes", please provide your comments below: (optional)

No comment

Policy Proposals

This section of the consultation documents **outlines the proposed policy changes and amendments that the authority is specifically seeking feedback on** as part of the consultation.

About You

Name (optional): ___ Gloucestershire Women's Liberation Collective
(‘GlosWomen’)_____

Which best describes the capacity in which you are responding to this consultation
(**required**):

- ☐ A councillor/committee
- ☐ A Member of Parliament
- ☐ A resident of Cheltenham
- ☐ A resident not of Cheltenham
- ☐ A performer
- ☐ A sexual entertainment venue operator/licensee
- ☐ A customer of sexual entertainment venues in Cheltenham
- ☐ A licence holder (bars, clubs etc)
- ☐ A non-licensed/other business in Cheltenham
- ☐ A statutory body (police, OPCC, council departments, NHS etc.)
- ☒ X An advocacy or other group/organisation that promotes equality or other social issues/values (i.e. VAWG, gender equality etc.)
- ☐ A support service/organisation (commissioned or otherwise)
- ☐ A religious organisation, group or body
- ☐ Other not specified (please specify): _____

1. An approach where SEVs are licensed and regulated

Generally, the authority continues to prefer an approach where SEVs are licensed and regulated rather than operating unlicensed under the infrequency exemption. This general approach is driven by:

1. Acknowledgement that there is a high probability that SEVs would continue to operate regardless of a nil limit set in policy;
2. The fact that SEVs would continue to operate unlicensed and unregulated also means the public protection and public safety risks are substantially increased.
3. Equally, unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised. Unlicensed and unregulated SEVs will likely have the opposite effect as an unregulated activity.

Question: Do you agree, or disagree, with the authority's continued preference towards licensing and regulation as opposed to SEV operating unlicensed under the infrequency exemption? (required)

- ☐ Agree
- ☐ Disagree

Please provide any further comments you wish to make in relation to your answer.
(optional)

GlosWomen neither agree nor disagree with the authority's preferred approach towards SEV licensing.

Licensed vs Unlicensed

We are concerned about the risks posed both to women working in SEVs and women in the wider community when SEVs operate under the frequency exemption. However, whilst we recognise that the licensing regime allows for additional regulation and scrutiny, we do not believe that this regime sufficiently reduces the risks posed to women (both working in SEVs and in the wider community) or addresses the wider societal harms that SEVs (as part of the sex trade) contribute to.

Sex Equality Concerns

The authority states that unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised by objectors and that unlicensed and unregulated SEVs will likely have the opposite effect. This position suggests that the licensing regime does address equality concerns raised by objectors.

The sex equality concerns that we have raised during licensing committee meetings have not been adequately addressed by the committee and we do not accept that the current licensing regime (or any of the proposed changes being considered as part of this consultation) alleviate or mitigate any of the sex equality concerns that we have raised. This is because there is nothing that can mitigate the reinforcement of unequal power relations between men and women, which is central to the lap dancing/strip club business model. Strip and lap dancing clubs - where women are sexually objectified and the idea that men are entitled to access women's bodies is reinforced - contribute to harmful sexist and misogynistic attitudes that underpin the endemic abuse, harassment and violence against women and girls in society.

Breaches

Breaches of licensing conditions in respect of touching (both between performers and between customers and performers) were observed at both licensed and unlicensed venues during Race Week 2024. Little detail has been provided about the context and nature of these breaches but we remain concerned that women working in these venues

may have been harmed and are at additional risk of assault and harassment, as a result. Such breaches indicate that the licensing regime cannot mitigate the inherent risks of lap dancing/stripping.

Use of the Frequency Exemption

The authority considers there to be a high probability that SEVs would continue to operate regardless of a nil limit set in policy. We note that despite the authority's preference for licensing SEVs, unregulated and unlicensed SEVs already operate in Cheltenham. One venue (Moo Moo) operated under the frequency exemption in Race Week 2024 and we understand that unlicensed lap dancing (relying on the frequency exemption) may have taken place at two venues during Race Week 2025 (Moo Moo and Popworld). The current licensing regime does not prevent unlicensed and unregulated SEVs and we do not believe that anything proposed as part of this consultation will prevent unlicensed and unregulated SEVs in the future. We support the repeal of the frequency exemption to close this exploitable loophole.

Terminology – Frequency Exemption

Finally, we are confused by the authority's use of the term 'infrequency exemption'. The statutory exemption which allows for sexual entertainment to be provided up to 11 times a year within any 12 month period, provided that each occasion lasts no longer than 24 hours and no such occasion begins less than a month from the end of the last, is commonly known as the **frequency exemption** (as detailed in Phillip Kolvin KC's book, 'Sex Licensing'). We are concerned that this change to widely used and understood terminology may confuse those responding to the consultation.

2. A nil limit

The authority has the discretion³ to set a nil limit for licensed SEVs in any "relevant locality". Relevant locality could be defined as the entire borough of Cheltenham or different parts within the borough.

The authority's existing licensing policy sets two relevant localities:

1. An adopted "Designated Permitted Area" where the policy sets no limit on the number of licensed SEVs; and
2. The rest of the borough where the policy sets a nil limit.

The authority is not proposing a change to the existing two relevant localities.

The authority is of the view that the existing policy rationale for the two relevant localities remains relevant. That is that Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority's view therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV.



Question: Do you agree, or disagree, with the authority's proposal to maintain the existing to relevant localities and the limit(s) set for each? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (optional)

GlosWomen do not consider any locations within the borough appropriate for the licensing of SEVs due to the sex equality concerns that we have set out in the above section.

However, the authority recognises that the Designated Permitted Area within the town centre offers a more varied 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.

Within the Designated Permitted Area the town centre, the authority is proposing to set a maximum limited of two licensed SEVs.

The rationale for setting this maximum limit is based the fact that licensing history and experience has suggested two licensed SEVs are sufficient to satisfy demand for this type of licensed activity and supports the proposed "Acquired Rights" (discussed later in this consultation document) policy.

Question: Do you agree, or disagree, with the authority's proposal to set a maximum limit of two licensed SEVs within the Designated Permitted Area the town centre? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (optional)

GlosWomen disagree with the proposal to set a limit of two licensed SEVs within the Designated Permitted Area. Whilst this may meet the needs of current licence holders, (by creating the potential for a monopoly in respect of available licences) we would argue that due to the sex equality concerns that we have raised on numerous occasions, the appropriate limit of licensed SEVs should be nil.

The sex equality concerns that we have raised during licensing committee meetings have not been adequately addressed by the committee and we do not accept that the current licensing regime (or any of the proposed changes being considered as part of this

consultation) alleviate or mitigate any of the sex equality concerns that we have raised. This is because there is nothing that can mitigate the reinforcement of unequal power relations between men and women, which is central to the lap dancing/strip club model. Strip and lap dancing clubs - where women are sexually objectified and the idea that men are entitled to access women's bodies is reinforced - contribute to harmful sexist and misogynistic attitudes that underpin the endemic abuse, harassment and violence against women and girls in society.

As equality law expert Karon Monaghan KC put it to the Women and Equalities Committee in 2018, Sexual Entertainment Venues "have an impact on the wider community because they promote the idea that sexual objectification of women and sexual harassment commonly in those environments is lawful and acceptable...How are we [licensing SEVs] in the 21st century? We are not going to get rid of sexual violence if we mandate the sexual objectification of women in licensed venues."

Additionally, the authority is proposing to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered.

The rationale for this is the acknowledgment that the Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area. Whilst each application is determined on its individual merits, the licensing in this proposed area has set some precedence to justify the proposed change.

Question: Do you agree, or disagree, with the authority's proposal to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered? (required)

- ☐ Agree
- ☐ Disagree

Do you have any other comments to make in relation to this? (**optional**)

GlosWomen neither agree nor disagree with this proposal. We believe that the appropriate limit of licensed SEVs within the borough of Cheltenham should be nil.

3. Amendments to Standard Licensing Conditions

The authority is proposing to amend a number of standard licensing conditions:

Existing Condition	Change/amendment
Condition 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.	Remove – substantially addressed by condition 6 below.
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 4 as stated? (required)</p> <p><input type="checkbox"/> Agree <input type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>Please see our comments below in respect of proposed Condition 6.</p>	

<p>Condition 6 – 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.</p>	<p>Add – “...with the exception of any registered trademark, trading name or trading symbol that has been provided to the authority in connection with the most recent application for licence, its renewal or variation as the case may be.”</p> <p>The authority, believes provides a reasonable balance that will:</p> <ol style="list-style-type: none"> 1. allow the greater flexibility for operators (recognising SEVs are a legitimate part of the retail and leisure industries); 2. whilst ensuring public protection and safeguarding though: 3. restricting the “exempt” advertisement content; and 4. implementing a proposed process whereby the authority will scrutinise and approve “exempt” advertisement content.
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Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 6 as stated? (required)

☐ Agree

☒ X Disagree

Do you have any other comments to make in relation to this? (optional)

The explanatory note indicates that the authority will approve any form of trademark, trading name or trading symbol that an applicant proposes to display within the borough (either outside the premises, in the immediate vicinity or elsewhere within the Town) as part of the application/renewal process. However, the proposed additional wording is not clear on this point. The additional wording indicates that applicants will be permitted to display trademarks/trading names/trading symbols that have been **provided** to the authority not that these trademarks/trading names/trading symbols will also be subject to the **approval** of the authority. We would suggest that the words 'and approved by' should be added following the words 'provided to' in this clause.

It is not clear from the detail provided above whether the remainder of Standard Condition 6 (which relates to solicitation, leafleting, cruising vehicles etc) will remain as drafted. This needs to be clarified.

Conditions 22 & 26 references to "state of undress"

Replace "state of undress" with "display of nudity".

This is to provide clarity of definition.

Question: Do you agree, or disagree, with the authority's proposal to change/amend conditions 22 & 26 as stated? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (optional)

The authority needs to provide a more detailed explanation as to why replacing 'state of undress' with 'display of nudity' provides greater clarity. The inclusion of 'display of nudity' in conditions 22 and 26 now make these conditions difficult to understand. We would suggest that using the phrase 'engaged in a display of nudity' might improve clarity.

We would suggest that the definition of 'display of nudity' as contained in paragraph 2A of Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982 is clearly incorporated into the SEV policy.

We assume that the authority prefers the use of the term 'display of nudity' to 'state of undress' as women working in SEVs as performers will generally be in what would commonly be understood to be a state of undress (i.e. wearing lingerie) before they engage in a performance with a customer.

<p>Condition 24 - 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.</p>	<p>Amend condition 24 to read:</p> <p>An appropriate room, or rooms, shall be set aside to provide a changing and rest area for performers. As a minimum:</p> <ul style="list-style-type: none"> a. Access to such room(s), must be restricted to performers only and reasonable measures put in place to ensure security and exclusive use; b. The location of such room(s), must be marked on the plan of the premises; c. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary facilities may be implemented subject to the approval of the authority; d. Such room(s) must be fully accessible and unrestricted to performers during all times the premises is open and operating for Relevant Entertainment; e. Such room(s) must be of decent standard, including, but not limited to, general condition and safety, occupiable space, seating provision, access to free drinking water or other non-alcoholic refreshments and sufficiently heated; and f. Such room(s) should provide separate and private smoking facilities for performers. Where direct access to separate and private smoking facilities for
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	<p>performers is not available or practical, other arrangements for separate and private smoking facilities may be implemented subject to the approval of the authority.</p>
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 24 as stated? (required)</p> <p><input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>We agree with the proposed amendment to Standard Condition 24, which we feel improves requirements regarding changing and rest areas for performers.</p>	
<p>Condition 25 - Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.</p>	<p>Partly amend to remove "Any bodily contact between entertainers or performers or" but retain "Any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden."</p> <p>This is to address a technical breach where accidental bodily contact between entertainers or performer could occur.</p>

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 25 as stated? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (optional)

Further detail needs to be provided regarding the rational for this amendment. Avoiding a technical breach, where accidental bodily contact between performers, could be achieved by some additional wording to this effect.

We assume that the licensing team would not enforce a technical breach which was the result of accidental bodily contact, as that is not the purpose of this condition and would be a disproportionate response. We suspect that the purpose of the proposed amendment is to allow for bodily contact (which is not accidental) between performers but which does not go so far as indicating sexual activity or simulated sex. If this is the case, then this needs to be stated clearly and the rationale for such a relaxation of the original standard condition needs to be explained and justified.

Condition 35 - 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.

Replace "Police Crime Reduction Officer" with "Gloucestershire Constabulary".

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 35 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

We assume that this amendment has been made for clarity and accuracy.

4. "Acquired Rights" Policy

The authority is proposing to adopt an "Acquired Rights" policy. Under such a proposed policy, the authority seeks to acknowledge that there are currently licenced Sexual Entertainment Venues within the borough that have been licensed for a number of years.

As such, under the proposed "Acquired Rights" policy, the authority proposes to determine that these licensed SEVs will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period. If there are any objections to an application, it will be considered by the Licensing Committee in accordance with the relevant statute.

This essentially provides acquired rights to these existing operators for the current time.

The High Court on [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#) ruled such a policy lawful if applied correctly. Such a policy would not fetter the authority's discretion because the statutory grounds for refusal would continue to apply, and the proposed policy does not preclude objections. The implications of the proposed "Acquired Rights" policy would create a presumption in favour of renewal if there were no material change in the character of the area in the intervening period.

Question: Do you agree, or disagree, with the authority's proposal to adopt an "Acquired Rights" Policy? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (optional)

We are concerned that the proposed adoption of an Acquired Rights policy will have the effect of limiting local peoples' engagement with the SEV licensing process and is at odds with the aims of the legislative provisions relating to SEVs, which envisaged a greater say for local people in the licensing of such venues.

If an Acquired Rights Policy is adopted, it must make absolutely clear that members of the public can still object to licence applications, whether they are new applications or applications to renew.

In addition, any Acquired Rights Policy must clarify that the presumption of renewal will be rebutted not only where there is a material change in the character of the area in the intervening period but where other relevant matters, such as breaches of conditions, have occurred or complaints have been received, in the intervening period.

5. Plans

The authority is seeking to strengthen the policy requirements as it relates for plans accompanying applications for SEVs. The authority acknowledges feedback from those who have engaged in the licensing process that, at times, plans accompanying applications have not been sufficiently clear, up to date and/or sufficient for the purpose of commenting on individual applications.

Section 6 of the existing policy outline the policy requirements as they relate to plans accompanying applications. Proposed changes (where in bold sections indicate the proposed changes):

1. 6.1 Replace "The plan shall be drawn at a scale of 1:100 and shall show" with **"All plans submitted must be drawn at a scale of 1:100, clearly indicate the scale and must be clear and fully legible."**
2. Replace h) "The dressing room of performers" with **"The room(s) allocated to allow performers to rest, dress and store personal items including any bathrooms or other facilities set aside for exclusive use by performers."**
3. **New section o) "Must clearly indicate the location, layout and sizes of all booths inside the premises used for "Relevant Entertainment"."**
4. **New section p) "All plans accompanying the application must have a clear drawn date and reference number indicated."**

Question: Do you agree, or disagree, with the authority's proposal to amend the policy requirements for plans to accompany applications? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

We agree with the proposed amendments in respect of the provision of plans. It is imperative that applicants provide accurate plans so that the public and committee members can assess whether proposed measures for the privacy, dignity and safety of women performing in the SEVs are adequate.

6. Designated Person in Charge

The authority is proposing to implement a new requirement on applicants for SEV licenses, including subsequent/renewal applications, to clearly identify a designated person in charge.

Similar to the role of a Designated Premises Supervisor under the Licensing Act 2003, the designated person in charge will be the key person who will be responsible for the day-to-day management of the licensed SEV, including (but not limited to):

1. responsibility to ensure compliance with law and licensing conditions;
2. being available during inspections and;
3. able to respond to requests by the police or authorised officers of the council for information, evidence (i.e. CCTV footage) and/or addressing immediately issues arising from the operation of the SEV.

The designated person in charge will be specified on the licence.

Question: Do you agree, or disagree, with the authority's proposal to implement a "Designated Person in Charge" requirement? (required)

☒ X Agree
☐ Disagree

Do you have any other comments to make in relation to this? (optional)

We feel that the requirement of a designated person in charge is a useful change to SEV licensing requirements. We note, however, that the authority has not provided any detail as to whether the designated person is required to have relevant qualifications or measures for declaring and/or checking for criminal convictions/criminal proceedings.

7. Factors for consideration - Discretionary grounds (a) and (b)

The authority is proposing to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b).

This is to assist licence holders, potential licence holders, the public and the Licensing Committee with further guidance on relevant matters to consider when determining applications. Grounds (a) and (b) are:

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 themselves.*

The proposed supplementary guidance is:

In considering the suitability of those persons referred to in (a) and (b) above, the factors the Council may take into account includes:

- relevant experience;
- relevant criminal convictions;
- whether the person has committed relevant offences;
- relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;
- relevant findings by courts and tribunals in connection with the treatment of protected groups (within the meaning of the Equality Act 2010)
- information germane to the person's ability to, among other things:
 - ensure the safety and wellbeing of performers; o ensure the proper protection of the public;
 - ensure the suitability of employees, performers and others using the venue; o prevent performance by or for those who may thereby be harmed, including minors;
 - understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises; and/or
 - engage constructively with the Council and other relevant regulators.

Question: Do you agree, or disagree, with the authority's proposal to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b)? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

We welcome the clarification that the inclusion of the additional guidance brings. It is not clear however what steps the authority will take to establish such matters/obtain relevant information. We also note that the factors contained in the additional guidance are optional - there is nothing to compel the authority to consider these factors in deciding the outcome of an application.

Equality Impact Assessment

In accordance with the authority's duties under the Equality Act 2010, an Equality Impact Assessment has been undertaken to inform the policy proposals outlined in this document.

As part of this consultation, the authority is seeking feedback on the Equality Impact Assessment that underpins the various policy proposals.

The Equality Impact Assessment is a separate document (to this consultation document) but forms part of the overall SEV policy consultation.

Question: Do you have any comments on the Equality Impact Assessment accompanying the proposed draft policy? (required)

☒ Yes

☐ No

If “Yes”, please provide your comments below: (optional)

a. Research and Evidence:

Section 2. - Could the authority provide their methodology for selecting and reviewing relevant research as part of the EIA? Only two studies are listed in this section.

GlosWomen and other objectors have provided links to the Safe and Equal Bristol Report:

Sexual Entertainment Venues Policy Review from November 2021 (also referenced in [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#)), which includes research evidence relating to the following sex equality concerns which are relevant to SEVs:

- the link between sexual objectification of women, harmful attitudes towards women and girls and men’s violence against women and girls
- SEVs and the wider sex trade, as a conducive context for sexual assault and harassment of women

Could the authority confirm that the Safe and Equal Bristol Report has been reviewed as part of this EIA?

Section 3. (Legislation)– It would be useful to set out how the provisions of the Police and Crime Act 2009 changed the regulation of SEVs.

Section 4. (Research on dancers’ experiences) – This section seems to include the abstract of a specific piece of research and is therefore confusing to read. As noted above, there is evidence of SEVs as a conducive context for sexual assault and harassment. There are also testimonies of women who have had negative experiences of working in SEVs - See the Not Buying It website.

We feel strongly that the authority needs to consider how insecure lap dancing/stripping work is, as part of this EIA. Women working in SEVs are self-employed (they are not employees) and therefore do not benefit from legal protections afforded to employees. Women pay house fees, as well as a percentage of each dance to the house. They are

also subject to numerous house rules, which, if breached, can result in them being fined and/or having their contracts terminated. We are not aware of any other form of self-employment (other than in the sex trade) which operates in this way.

Section 5 (Crime and Disorder)- Whilst Gloucestershire Police state that there has been no increase in **reported** crime and disorder or, more specifically, **reported** sexual offences in or in the vicinity of the licensed SEVs, this cannot be taken as evidence that incidences have not occurred. We know that women and girls do not routinely report sexual violence to the police. We live in a society where rape is effectively decriminalised, confidence in the police and the wider criminal justice system amongst women and girls is incredibly low and a society where men's violence against women and girls is normalised.

Section 7 – This section makes for depressing reading. It seems to be the authority's position that because race meets already make the town a hostile environment for many women, the presence of SEVs should be tolerated. Reducing and preventing men's violence against women and girls requires cultural and social change. Instead of regulating inequality between the sexes (in the form of licensed SEVs), the authority could show real leadership and refuse to endorse particularly acute manifestations of sex inequality. An authority that cared about the lives of women and girls would take all available opportunities to tackle and prevent sexual violence towards women.

b. Consultation

Section 3 (Chief Officer of Police) – The police representative explained their preference for a licenced approach to SEVs, citing issues that have been observed at venues operating under the frequency exemption, including touching between customers and performers. Of course, touching between performers and customers has also been observed at licensed venues – it is not an issue that only occurs at unlicensed venues.

We would also repeat our comments outlined at Section 5 above in respect of crime and disorder. Although reported crime and disorder may not be significant, this does not mean that incidents that meet criminal thresholds have not occurred. The authority needs to be mindful that women do not routinely report sexual violence to the police.

Section 4 – Whilst the operator and performers' representative assert that women engage in performance within SEVs of their own free will, they cannot make this statement on behalf of all women performing in SEVs. The authority needs to engage with a broader range of testimony from women who have been involved in lap dancing and stripping, explaining many of the socio-economic factors that influence their decision to engage in stripping and lap dancing and which limit agency and autonomy. The authority must also be mindful that the production of certain papers /documents cannot be taken as proof that a woman has not been subject to trafficking or coercion.

We note the statement that licensed and regulated activities give performers assurance in terms of their protection and safeguarding. Whilst we welcome provisions that improve protection, we would comment that licensing and regulation cannot guarantee the elimination of harm. For example, there have been breaches of conditions relating to touching in a licensed venue (Race Week 2024) which may have harmed women working in the club.

3. Assessment

Note about anecdotal evidence – There are two mentions of anecdotal evidence in the ‘Description of Impact’ sections for the Protected Characteristics of age and sex. We are concerned that there is an insinuation that ‘anecdotal evidence’ is not reliable. Whilst we accept that it is not possible to make claims that such evidence is representative of all members of a protected characteristic, the evidence described is experiential, from objectors and groups that have been invited to take part in the consultation process and therefore should not be dismissed.

Mitigating Action – The authority suggests repeatedly that setting limits (other than a nil cap) in respect of issuing SEV licences allows the authority to regulate sexual entertainment. Whilst this action allows the authority to regulate **licensed** sexual entertainment, it does not prevent other operators from providing sexual entertainment under the frequency exemption. Therefore, the equality issues that the authority feel that they can mitigate via licensing and regulation (we contest this assertion as we do not believe it is possible to mitigate the sex equality concerns through licensing and regulation) could still be present because of the operation of SEVs under the frequency exemption.

Mitigating Action in respect of sex equality concerns – The authority asserts that *‘equality issues arising from this category will not be entirely mitigated by a nil limit because the issues mainly relate to the general issue of races rather than specifically the operation of SEVs.’*

The issues experienced by women and girls during Race Week, that have been highlighted by GlosWomen’s Race Week survey and the Council’s own surveys, are rooted in unequal power relations between men and women. Sexual entertainment venues- where women are objectified and men pay for access to women’s bodies - are a particularly concentrated and powerful example of such inequality and are therefore inextricably linked to the sexual violence that women and girls face during Race Week. The authority should target activities that strongly reinforce inequality between the sexes (i.e lap dancing and stripping) and send the message to Race Week visitors that the objectification of women and girls is not tolerated by Cheltenham Borough Council. CBC seem to take the position that women and girls will face hostility, harassment and violence anyway, so granting SEV licences is an acceptable course of action.

It seems that the authority has totally failed to engage in the broader evidence base (such as the evidence detailed in the Safe and Equal Bristol Report: Sexual Entertainment Venues Policy Review from November 2021) in respect of the sex equality concerns (objectification, harmful sexist and misogynistic attitudes and links to violence against women and girls) that relate to sexual entertainment. The judgement in [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#) was clear that a focus on public safety and dancer welfare is insufficient to discharge the Public Sector Equality Duty. In this case, the Judge agreed with the Claimant’s solicitor that the relevant authority should have undertaken further research to understand the impact of attitudes on women and girls which are reinforced by

sexual entertainment and cited the Safe and Equal Bristol Report as an example of relevant research. The Public Sector Equality Duty requires consideration of the impact on **all** women in wider society (not just those working in or in the vicinity of the SEV).

The authority suggests that sex equality concerns can be addressed and mitigated through licensing and regulation of SEVs, yet provide no detail as to which of the measures or conditions do so and in what respect.

The authority states that female performers' safeguarding and rights will be diminished if unlicensed sexual entertainment were to go ahead. Whilst we share the authority's concerns about risk to female performers under the frequency exemption, we remain concerned that the licensed regime cannot eliminate the risks to women performing in SEVs. We know that there have been breaches of standard conditions in licensed SEVs which could have harmed women performing there.

Could the authority clarify which performers' rights are strengthened under the SEV licensing regime? Women working in the SEV clubs are self-employed and do not benefit from employment rights and are subject to house rules, which if they breach could lead to them being fined or having their contracts cancelled.

Socio-economic factors – Could the authority provide evidence that sex establishments attract people to the town? Is it not the case that the racing attracts (mainly male) visitors to the town and SEV operators attempt to capitalise on the presence of these men to make money in SEVs? We know that SEVs spend a lot of time and effort soliciting customers during race meets, which would suggest that they need to create interest in the SEV/drum up custom.

As mentioned previously, the authority needs to consider the lap dancing/stripping business model and how insecure this is as a form of income for women who perform. The authority's comments in this respect (e.g. fees, penalties, rules and employment practices and protections) indicate that there is not a good understanding of how these businesses operate. The women who work in SEVs are self-employed and therefore do not benefit from legal protections afforded to employees. Women pay house fees, as well as a percentage of each dance to the house. They are also subject to numerous House Rules, which, if breached, can result in them being fined and/or having their contracts terminated. We are not aware of any other form of self-employment (other than in the sex trade) which operates in this way. The authority seems to believe that such practices are only likely to occur in SEVs operating under the frequency exemption. The reality is that this is the business model and this is the basis on which women engage with SEVs whether they are licensed or not.

Policy Proposals

This section of the consultation documents **outlines the proposed policy changes and amendments that the authority is specifically seeking feedback on** as part of the consultation.

About You

Name (optional): ____ I do not consent to my personal information being shared so have chosen to include my name _____

Which best describes the capacity in which you are responding to this consultation **(required)**:

- ☐ A councillor/committee
- ☐ A Member of Parliament
- ☐ A resident of Cheltenham
- ☐ A resident not of Cheltenham
- ☐ A performer
- ☐ A sexual entertainment venue operator/licensee
- ☐ A customer of sexual entertainment venues in Cheltenham
- ☐ A licence holder (bars, clubs etc)
- ☐ A non-licensed/other business in Cheltenham
- ☐ A statutory body (police, OPCC, council departments, NHS etc.)
- ☒ An advocacy or other group/organisation that promotes equality or other social issues/values (i.e. VAWG, gender equality etc.)
- ☐ A support service/organisation (commissioned or otherwise)
- ☐ A religious organisation, group or body
- ☐ Other not specified (please specify): _____

11. An approach where SEVs are licensed and regulated

Generally, the authority continues to prefer an approach where SEVs are licensed and regulated rather than operating unlicensed under the infrequency exemption. This general approach is driven by:

16. Acknowledgement that there is a high probability that SEVs would continue to operate regardless of a nil limit set in policy;
17. The fact that SEVs would continue to operate unlicensed and unregulated also means the public protection and public safety risks are substantially increased.
18. Equally, unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised. Unlicensed and unregulated SEVs will likely have the opposite effect as an unregulated activity.

Question: Do you agree, or disagree, with the authority's continued preference towards licensing and regulation as opposed to SEV operating unlicensed under the infrequency exemption? (required)

- ☒ Agree
- ☐ Disagree

Please provide any further comments you wish to make in relation to your answer. **(optional)**

I believe that this question conflates two issues. It is possible for Cheltenham Borough Council to set a nil limit for SEV's in Cheltenham if it chooses to do so, this is a strategic decision for the council to make as to whether it wishes strip clubs to operate in the town or not.

This is not the same as the day-to-day operation of the Licensing Committee who are tasked with deciding each SEV application its merits.

It is reasonable for elected officials to take, as a democratic mandate, that a sufficient number of residents do not want strip clubs and to base your strategic decisions making on this.

This policy decision is a question for Councillors to decide their vision for Cheltenham – is it one where the council condone men's entitlement to objectify and commercially exploit women for their (men's) sexual gratification or not?

If the Council wishes Cheltenham to be a progressive town where equality, and women and girls are truly valued then it needs to create a vision and set of values where strip clubs are not condoned.

12. A nil limit

The authority has the discretion¹⁴ to set a nil limit for licensed SEVs in any "relevant locality". Relevant locality could be defined as the entire borough of Cheltenham or different parts within the borough.

The authority's existing licensing policy sets two relevant localities:

36. An adopted "Designated Permitted Area" where the policy sets no limit on the number of licensed SEVs; and
37. The rest of the borough where the policy sets a nil limit.

The authority is not proposing a change to the existing two relevant localities.

The authority is of the view that the existing policy rationale for the two relevant localities remains relevant. That is that Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority's view therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV.

¹⁴ 12(3)(c) of the Local Government (Miscellaneous Provisions) Act 1982

Question: Do you agree, or disagree, with the authority's proposal to maintain the existing to relevant localities and the limit(s) set for each? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

The challenge here is that the licensing committee has chosen to licence strip clubs outside of the DPA and also to license strip clubs within the DPA even though they are on the edge of residential areas.

With this in mind I'm not clear how meaningful proposed areas are when the licensing committee does not adhere to the council's adopted policy.

However, the authority recognises that the Designated Permitted Area within the town centre offers a more varied 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.

Within the Designated Permitted Area the town centre, the authority is proposing to set a maximum limited of two licensed SEVs.

The rationale for setting this maximum limit is based the fact that licensing history and experience has suggested two licensed SEVs are sufficient to satisfy demand for this type of licensed activity and supports the proposed "Acquired Rights" (discussed later in this consultation document) policy.

Question: Do you agree, or disagree, with the authority's proposal to set a maximum limit of two licensed SEVs within the Designated Permitted Area the town centre? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

The Council's statement says "There is no demand for SEV's outside race meetings". Why should inappropriate attitudes to women be condoned just because some people who arrive from out of the area have those attitudes. Would the non licensing of the SEV's affect the race meeting going ahead, I don't think so.
I believe that the limit should be Nil, there is no demand for strip clubs outside of race events.

Additionally, the authority is proposing to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered.

The rationale for this is the acknowledgment that the Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area. Whilst each application is determined on its individual merits, the licensing in this proposed area has set some precedence to justify the proposed change.

Question: Do you agree, or disagree, with the authority's proposal to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (**optional**)

I do not believe that the DPA should be extended. There is no justification for the council to extend this area.

38. Amendments to Standard Licensing Conditions

The authority is proposing to amend a number of standard licensing conditions:

Existing Condition	Change/amendment
Condition 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.	Remove – substantially addressed by condition 6 below.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 4 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Condition 6 – 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.

Add – "...with the exception of any registered trademark, trading name or trading symbol that has been provided to the authority in connection with the most recent application for licence, its renewal or variation as the case may be."

The authority, believes provides a reasonable balance that will:

21. allow the greater flexibility for operators (recognising SEVs are a legitimate part of the retail and leisure industries);
22. whilst ensuring public protection and safeguarding though:
23. restricting the "exempt" advertisement content; and
24. implementing a proposed process whereby the authority will scrutinise and approve "exempt" advertisement content.

Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 6 as stated? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Conditions 22 & 26 references to “state of undress”	<p>Replace “state of undress” with “display of nudity”.</p> <p>This is to provide clarity of definition.</p>
<p>Question: Do you agree, or disagree, with the authority’s proposal to change/amend conditions 22 & 26 as stated? (required)</p> <p><input type="checkbox"/> Agree <input type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>I’m unclear what this consultation is seeking to achieve with these proposed amendments - a state of undress is generally taken to mean “not fully dressed” which is not the same as a “display of nudity”.</p> <p>These clauses from Tower Hamlets appear clearer</p> <p>Performers must remain fully dressed while on the Premises, except while performing in the sexual entertainment areas and in the changing rooms shown on the approved plan. [Without prejudice to this requirement, there is to be no display of nudity in the public areas of the Premises, other than during the course of a performance].</p> <p>Performers must re-dress at the conclusion of a performance.</p>	
Condition 24 - 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.	<p>Amend condition 24 to read:</p> <p>An appropriate room, or rooms, shall be set aside to provide a changing and rest area for performers. As a minimum:</p> <ul style="list-style-type: none"> ee. Access to such room(s), must be restricted to performers only and reasonable measures put in place to ensure security and exclusive use; ff. The location of such room(s), must be marked on the plan of the premises; gg. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary facilities may be implemented subject to the approval of the authority;

	<p>hh. Such room(s) must be fully accessible and unrestricted to performers during all times the premises is open and operating for Relevant Entertainment;</p> <p>ii. Such room(s) must be of decent standard, including, but not limited to, general condition and safety, occupiable space, seating provision, access to free drinking water or other non-alcoholic refreshments and sufficiently heated; and</p> <p>jj. Such room(s) should provide separate and private smoking facilities for performers. Where direct access to separate and private smoking facilities for performers is not available or practical, other arrangements for separate and private smoking facilities may be implemented subject to the approval of the authority.</p>
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 24 as stated? (required)</p> <p><input type="checkbox"/> XAgree <input type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>Anything that improves the facility for performers has my support – terms such as “appropriate” and “decent” are subjective and open to interpretation. Further clarification should be provided.</p>	
Condition 25 - Any bodily contact between entertainers or performers or any	Partly amend to remove “Any bodily contact between entertainers or performers or” but

<p>movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.</p>	<p>retain “Any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.”</p> <p>This is to address a technical breach where accidental bodily contact between entertainers or performer could occur.</p>
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 25 as stated? (required)</p> <p><input type="checkbox"/> Agree <input checked="" type="checkbox"/> X Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p> <p>I do not agree that reference to bodily contact should be removed entirely – it is possible that there could be bodily contact (which is not movement) between performers that could indicate sexual activity and I would therefore ask that the clause is reviewed and reworded to reflect this.</p> <p>I would also suggest that the following clarification is added –</p> <p>Any performance shall be restricted to dancing and the removal of clothes. There must not be any other form of sexual activity, including but not limited to acts or the simulation of acts of personal stimulation.</p>	
<p>Condition 35 - 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.</p>	<p>Replace “Police Crime Reduction Officer” with “Gloucestershire Constabulary”.</p>
<p>Question: Do you agree, or disagree, with the authority's proposal to change/amend condition 35 as stated? (required)</p> <p><input checked="" type="checkbox"/> X Agree <input type="checkbox"/> Disagree</p> <p>Do you have any other comments to make in relation to this? (optional)</p>	

In Manchester this year , an SEV had a faulty and non repaired for weeks CCTV system , which was not functioning while there was an assault on club premises. I would suggest making such a breach of licensing condtions a reason for refusing the renewal of a license to the premises in the future.

39. “Acquired Rights” Policy

The authority is proposing to adopt an “Acquired Rights” policy. Under such a proposed policy, the authority seeks to acknowledge that there are currently licenced Sexual Entertainment Venues within the borough that have been licensed for a number of years.

As such, under the proposed “Acquired Rights” policy, the authority proposes to determine that these licensed SEVs will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period. If there are any objections to an application, it will be considered by the Licensing Committee in accordance with the relevant statute.

This essentially provides acquired rights to these existing operators for the current time.

The High Court on [CDE v Bournemouth, Christchurch and Poole Council \[2023\] EWHC 194 \(Admin\)](#) ruled such a policy lawful if applied correctly. Such a policy would not fetter the authority’s discretion because the statutory grounds for refusal would continue to apply, and the proposed policy does not preclude objections. The implications of the proposed “Acquired Rights” policy would create a presumption in favour of renewal if there were no material change in the character of the area in the intervening period.

Question: Do you agree, or disagree, with the authority’s proposal to adopt an “Acquired Rights” Policy? (required)

☐ Agree

☒ Disagree

Do you have any other comments to make in relation to this? (optional)

I do not agree with the inclusion of acquired rights on the basis that there is no demand within Cheltenham for strip clubs outside of race weeks. I further understand that the inclusion of acquired rights will make it more difficult for objections to be successful which is undemocratic.

The clause itself is problematic in that it seems to say that if the character of the area has not changed, then licences will be renewed in any event – i.e. even if (say) the premises have been grossly mis-managed. I would hope this is not what was intended.

If such as clause is adopted it should be amended to read

“9.4 It is acknowledged that there are currently licensed Sexual Entertainment Venues within the borough that have been continuously licensed for a number of years.

9.5 It has been determined that these existing licences will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period, and no other reason not to renew them, for example breaches of conditions, etc. If there are any objections to an application to renew such a licence, it will be considered by the Licensing Committee in accordance with the relevant statute. This essentially provides acquired rights and a rebuttable presumption in favour of granting renewal applications to these existing operators for the current time.”

40. Plans

The authority is seeking to strengthen the policy requirements as it relates for plans accompanying applications for SEVs. The authority acknowledges feedback from those who have engaged in the licensing process that, at times, plans accompanying applications have not been sufficiently clear, up to date and/or sufficient for the purpose of commenting on individual applications.

Section 6 of the existing policy outline the policy requirements as they relate to plans accompanying applications. Proposed changes (where in bold sections indicate the proposed changes):

21. 6.1 Replace “The plan shall be drawn at a scale of 1:100 and shall show” with **“All plans submitted must be drawn at a scale of 1:100, clearly indicate the scale and must be clear and fully legible.”**
22. Replace h) “The dressing room of performers” with **“The room(s) allocated to allow performers to rest, dress and store personal items including any bathrooms or other facilities set aside for exclusive use by performers.”**
23. **New section o) “Must clearly indicate the location, layout and sizes of all booths inside the premises used for “Relevant Entertainment””.**
24. **New section p) “All plans accompanying the application must have a clear drawn date and reference number indicated.”**

Question: Do you agree, or disagree, with the authority’s proposal to amend the policy requirements for plans to accompany applications? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

At the end of the day both the licensing team and the licensing committee have long had the ability to ask for plans with these details on and have chosen to ignore concerns and queries raised multiple times by those engaging with the licensing process.

Unless you all chose to enforce the terms of this licensing policy then the problems you highlight above will not be resolved.

41. Designated Person in Charge

The authority is proposing to implement a new requirement on applicants for SEV licenses, including subsequent/renewal applications, to clearly identify a designated person in charge.

Similar to the role of a Designated Premises Supervisor under the Licensing Act 2003, the designated person in charge will be the key person who will be responsible for the day-to-day management of the licensed SEV, including (but not limited to):

- 16. responsibility to ensure compliance with law and licensing conditions;
- 17. being available during inspections and;
- 18. able to respond to requests by the police or authorised officers of the council for information, evidence (i.e. CCTV footage) and/or addressing immediately issues arising from the operation of the SEV.

The designated person in charge will be specified on the licence.

Question: Do you agree, or disagree, with the authority's proposal to implement a "Designated Person in Charge" requirement? (required)

☒ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

42. Factors for consideration- Discretionary grounds (a) and (b)

The authority is proposing to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b).

This is to assist licence holders, potential licence holders, the public and the Licensing Committee with further guidance on relevant matters to consider when determining applications. Grounds (a) and (b) are:

A licence may be refused where:

- k) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;*
- l) 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 themselves.*

The proposed supplementary guidance is:

In considering the suitability of those persons referred to in (a) and (b) above, the factors the Council may take into account includes:

- relevant experience;
- relevant criminal convictions;
- whether the person has committed relevant offences;
- relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;
- relevant findings by courts and tribunals in connection with the treatment of protected groups (within the meaning of the Equality Act 2010)
- information germane to the person's ability to, among other things:
 - ensure the safety and wellbeing of performers;
 - ensure the proper protection of the public;
 - ensure the suitability of employees, performers and others using the venue;
 - prevent performance by or for those who may thereby be harmed, including minors;
 - understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises; and/or
 - engage constructively with the Council and other relevant regulators.

Question: Do you agree, or disagree, with the authority's proposal to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b)? (required)

☐ Agree

☐ Disagree

Do you have any other comments to make in relation to this? (optional)

Why not include having an enhanced DBS? (this might include any warnings that have been issued to the persons but which are not a criminal conviction)

What do you consider to be a relevant conviction?

Equality Impact Assessment

In accordance with the authority's duties under the Equality Act 2010, an Equality Impact Assessment has been undertaken to inform the policy proposals outlined in this document.

As part of this consultation, the authority is seeking feedback on the Equality Impact Assessment that underpins the various policy proposals.

The Equality Impact Assessment is a separate document (to this consultation document) but forms part of the overall SEV policy consultation.

Question: Do you have any comments on the Equality Impact Assessment accompanying the proposed draft policy? (required)

☐ Yes

☐ X No

If "Yes", please provide your comments below: (optional)

I don't believe that the EIQ adequately covers sex-based concerns of women either in the vicinity of the club or more widely in society which is required per the Bournemouth judicial review.