

**For information only – previously considered.**

**BRISTOL CITY COUNCIL  
LICENSING COMMITTEE  
30 JULY 2012**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982  
APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE  
MADE BY DEAN GEOFFREY BALDOCK IN RESPECT OF PREMISES  
TRADING AS PLATINUM GENTLEMENS CLUB, 22 DENMARK STREET,  
BRISTOL, BS1 5DQ.**

Report of the Strategic Director of Neighbourhoods and City Development

**Purpose Of Report**

The committee is asked:

1. (i) to decide whether the objection received after the deadline (objection number 22) can be taken into account; and
- (ii) having afforded a hearing to the applicant, to determine his application for the grant of a sexual entertainment venue (SEV) licence in respect of premises trading as Platinum, 22 Denmark Street, Bristol, BS1 5DQ.

**Background**

2. The Council has adopted the Local Government (Miscellaneous Provisions) Act 1982, as amended; therefore, subject to limited exceptions and exemptions, or in the absence of a waiver, premises offering relevant entertainment require a Sexual Entertainment Venue (SEV) licence to operate in the city of Bristol.

3. There is a presumption in the legislation that applications for a licence will be granted unless there is a statutory ground for refusal. Some refusal grounds require the Council to refuse an application (mandatory grounds for refusal) and some grounds enable the Council to refuse an application but do not require the Council to refuse (discretionary grounds for refusal). Your officers advise that none of the mandatory grounds apply in this case.

4. A copy of the council's regulations prescribing standard conditions applicable to licences for Sexual Entertainment Venues attached as Appendix G. These are the terms, conditions and restrictions on or subject to which any such licences that may be granted are presumed to have been granted unless they have been expressly excluded or varied.

## **The Application**

5. A completed application form was submitted on the 26 January 2011.

The legislation requires that notice be displayed at the premises for 21 days beginning with the application on or near the premises and in a place where the notice can conveniently be read by the public. The applicant did not adhere to this requirement. The requisite site notice was not in fact displayed until 30 January 2012.

The application is for an SEV licence enabling provision of relevant entertainment between 21:00 and 02:00 hours Monday to Wednesday and 21:00 03:00 hours Thursday to Saturdays, the premises being closed on Sundays. There are no other applications for SEV licences currently awaiting determination.

6. The relevant entertainment is described as including:

Live performance with female exposure of nipples.

Relevant entertainment to be mainly provided by way of:

- (a) Topless pole dancing,
- (b) Topless stage shows,
- (c) Topless lap-dance in a private communal room.

7. Copies of the location map of the premises and the plan of the premises are attached as Appendices A and B respectively.

8. Members will be aware that the standard condition L provides that:

“There shall be no display either upon or outside of the licensed premises (in such a way that it is visible on the exterior) of photographs or other images which indicate or suggest that Relevant Entertainment is provided upon the premises, with the exception of any registered trade mark, trading name or trading symbol that has been provided to the Council in connection with the most recent application for licence, its renewal or variation as the case may be”

Members are informed that the applicant has not supplied a copy of any registered trade mark, trading name or trading symbol so the condition would, if imposed un-amended, operate as an absolute prohibition on displays falling within those described in the condition / displayed on the premises that is visible from the exterior.

9. Copies of the performer's code of conduct, customer code of conduct and fees are attached as Appendices C, D and E respectively.

10. The applicant has not asked the Council to vary or exclude any standard condition.

## **11. Observations and objections**

In considering this application the Council must have regard to any observations submitted to them by the Chief Officer of Police and any objections of which notice has been sent to them under paragraph 8(15) of the adopted legislation which provides that:

“Any person objecting to an application for the grant, renewal or transfer of a licence under this Schedule shall give notice in writing of his objection to the appropriate authority, stating in general terms the grounds of the objection, not later than 28 days after the date of the application.”

Members are informed that objections received not later than 28 days after the 30 January 2012 (ie the date the site notice was correctly posted) have been deemed to have been received in time.

12. Twenty one objections were received within that period. One further objection, numbered 22 in the document at Appendix F was received 7 days after the deadline. No explanation has been provided as to why it was late. Members need to decide whether to allow it to be considered “out of time”. Summaries of and information about all twenty two objections are attached at Appendix F. The committee must have regard to the objections received in time and may have regard to the later objection if they see fit (but must ensure that in doing so no unfairness arises to the applicant). The Council must not without the consent of the person making the objection reveal their name and address to the applicant.

13. In addition to considering specific points highlighted in Appendix F key themes repeated in numerous objections are summarised below:

#### A. Character of the area

The area is mixed residential and commercial use in a central location. Area is also used for leisure and cultural activities such as the Hippodrome and proximity to a main multi storey car park, Cathedral, library, waterside area and St Marks Church. Venue is adjacent to student accommodation and the Oise language school which attract large numbers of young people from overseas, it is also in proximity to Cherry D Charity. Granting a licence to this venue will ruin the character of the city. It exceeds the number of SEVs determined as being acceptable for this location by BCC. Objectors allege that the premises located opposite are a brothel

#### B. Nuisance

The venue is in close proximity to stage door of Hippodrome and as such presents a risk of nuisance to other engaged in legitimate activity, the public who may wish to congregate at stage door and its proximity to places where the public congregate such as bus stops.

#### C. Concerns for public safety

Premises are intimidating as bouncers outside smoking and looking threatening. Quasi sexual services on offer which undermines the ability of lone females to walk alone in the city centre. Conditions attached to licences can only be reactive, incidents of verbal sexual harassment experience by

women rarely reported. Women avoid areas in vicinity of SEVs to reduce the potential for verbal sexual harassment or assault. Via its website the premises caters for and encourage stag parties which usually consist of large parties of young men who almost always abuse alcohol which will have a negative impact on levels of crime and disorder, public nuisance and perception of personal safety in the area

#### D. Gender Equality and the objectification of women

Lap-dancing is harmful and encourages the objectification and sexual exploitation of women. Lap dancing venues engender a negative influence on women's perception of safety and gender equality. Council has a duty to promote gender equality. The commercial sale of women's bodies is not consistent or compatible with the promotion of equality and respect between men and women. Working in the sex industry exerts a toll in terms of impact on spending habits, drug and alcohol abuse and exposure to assault.

#### E. Suitability of Premises

Layout, CCTV coverage renders premises unsuitable. Existence of premises in a very central location offends and causes problems for many reasons.

### **16. Observations of the Chief Officer of Police.**

The Chief Officer of Police has made observations. Members will note that some objectors refer to data and other material sourced from Avon and Somerset Police so it is important to make clear that the formal observations of the Chief Constable are those submitted to the council on his behalf as set out on the face of this report and on the face of the exempt report.

The Chief Constable has prepared a report to give a snapshot of the Avon and Somerset Constabulary involvement with the premises from the 1 January 2011 until 31 January 2012. The report has been compiled in many cases from a number of sources. In preparing these the police have endeavoured to be fair and balanced and to reflect a true picture of what happened.

The Chief Constable states that it is likely in working through the incidents and writing a précis of events certain entries in particular documents have been revised so that for instance a suspected serious injury in an initial report may be reduced to bruising in the summary, equally where the outcome was more serious that is likely to be reflected in the summary.

The source data used in preparation of the observations includes witness statements, e-mails, memos, crime and police reports, intelligence reports, meeting notes and police storm logs (incident reports). The Police say that in every case, where there is doubt over the summary, reference should be made to the source data that is held by Avon and Somerset Constabulary.

And that if any party wishes to seek clarification on any point within the documents or source data the police will endeavour to assist.

The following specific information is provided:

#### Incident Logs.

The source of the documentation which relates to the summary is referred to by incident number and the original is held by Avon and Somerset Constabulary. There has been only one incident log during this period which gives no concern in relation to the premises.

#### 11/12/2011. AS-20111211-0001

Anonymous person reported to police that a named female was leaving the club in an intoxicated state and would be driving a vehicle – details given – back to her home address in Newport. Vehicle was not located by police.

In addition the Police report that as a result of inspections intended to monitor compliance with the authorisation issued for the licensable activities permitted under the Licensing Act 2003 two letters have recently been sent to the Applicant. These letters resulted from the view taken by the Police about matters that have not been proved in any Court nor admitted by the licensee, the detail of the reasons underpinning the Police action is provided for Members' consideration in the exempt report. The Applicant and his representative, together with the Chief Officer of Police's representative (if in attendance) should be permitted to remain for that part of the meeting and to be heard in respect of those matters prior to determination of the application. .

#### **18. Observations of Licensing Authority under the Licensing Act 2003**

Inspection visits have been conducted at the premises to monitor compliance with conditions attached to the premises licence issued under the terms of the Licensing Act 2003, which permits the sale and supply of alcohol, regulated entertainment and late night refreshment. The findings of those inspections are currently subject of an ongoing investigation and have been included in the exempt report referred to above.

#### **19. Discretionary Grounds of Refusal:**

The Council may refuse the grant of a licence on one or more of four statutory grounds which are referred to in the following paragraphs:

Grounds a) and b):

- a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) That if the licence were to be granted the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself.

20. The Council's policy identifies a number of factors that the Council may take into account in considering the suitability of such persons, these are set out on page 6 of the policy under the heading 'Discretionary grounds a) and b)' as follows:

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

- 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 Equalities 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;
  - engage constructively with the Council and other relevant regulators

21. The applicant has been required through the application process to provide details of any convictions and of any other information that may be relevant to the consideration of this ground. Members will note that there is no evidence of conviction, caution, discrimination cases, pending allegations or other matters having been disclosed at the time the application was made and your officers have no reason to doubt the veracity of the information then provided. Observations made by the Chief Constable and Licensing Officers that are included in the exempt report referred to above, are relevant to this ground for refusal.

## 22. Ground c)

That the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority considers is appropriate for that locality.

23. The Council's policy sets out how it will usually approach this issue. At a meeting of this committee on the 21 January 2011 the process by which this would be done for the transitional round one applications, that were then pending, was agreed, namely that the Authority would review the applications and identify the locality or localities in which licences have been applied for. Having done so it would:

- apply its mind to those localities in a suitably focussed manner;
- identify any which were already subject to numerical control for other

forms of sex establishments and consider whether those decisions need to be revisited;

- consider whether there is a number of sex establishments, or sex establishments of a particular kind which the authority considers is appropriate for that locality (which may be nil);
- make its stance known to the public (in particular to applicants and existing licensees in the locality) in advance of making decisions on applications.

24. At its meeting on the 23 November 2011 the committee decided that the City Centre is a relevant locality and discussed the character of that locality having regard to its policy. The Council's existing paragraph c) policy was reviewed and it was resolved that the appropriate number of sex establishments, or sex establishments of a particular kind for the city centre locality should be:

Sex shops – 2

Sex cinemas – 0

Sexual entertainment venues (SEV) – 2

Members should review the relevant report and minutes of 23 November 2011 prior to this meeting taking place.

25. The committee is reminded that policy is guidance, not rules and whilst the public and applicants can expect that adopted policy will usually be followed the policy must not be rigidly or inflexibly applied and nor must it be allowed to fetter the discretion of the decision taker. Therefore the committee should keep an open mind to arguments that its policy is wrong and / or that it ought not to be relied upon to found a refusal in a particular case.

26. On 30 January 2012 the Council granted applications for SEV licences to two of the three applicants for licences in the city centre locality. Licences were granted for Urban Tiger and Central Chambers. This ground was relied upon for refusing the application made in respect of Lounge at 30. Your officers recommend that this ground of refusal should also be applied in this case as the decision taken by the committee on 23 November 2011 when it was determined that the appropriate number of SEV's at this locality should be two is still relevant.

27. Ground d)

That the grant or renewal of the licence would be inappropriate having regard –

(i) to the character of the relevant locality; or

(ii) to the use to which any premises in the vicinity

(iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

28. Ground d)(i)

That the grant or renewal of the licence would be inappropriate having regard to the character of the relevant locality.

At first glance this ground might appear to be a repetition of ground c) but the committee is reminded that whilst ground c) decisions concern sex establishments, or sex establishments of a particular kind, generally, ground d) is concerned with the appropriateness of granting the particular licence applied for having regard to the relevant locality.

Accordingly, even if ground c) does not apply to a particular application, it does not follow that ground d)(i) cannot arise. This is because, if granting what is sought in this particular type of relevant entertainment were considered to be inappropriate having regard to the character of the relevant locality, then this ground may be relied upon to found refusal notwithstanding that other types of relevant entertainment, or premises of a different appearance, or in a different part of the relevant locality etc may not be deemed to be inappropriate in that same locality.

In other words the test in d)(i) is focussed on the particular application and its appropriateness in the locality.

29. The adopted policy expects the character of the locality to be considered and the following factors to be taken into account:

- (i) the size and appearance of the premises
- (ii) their proximity to places where the public congregate for purposes other than use of the premises, such as bus stops and taxi ranks.
- (iii) the nature and style of the relevant entertainment that is proposed
- (iv) the nature of the clientele it is likely to attract and their number
- (v) the duration of the proposed licence / activity
- (vi) the manner in which the relevant entertainment is likely to be managed
- (vii) the risk of nuisance to others engaged in legitimate activity
- (viii) the proposed hours of operation

30. Members will note a number of objections are made to the appropriateness of granting this application that address factors identified in your policy as set out above.

31. Ground d)(ii).

The use to which other premises in the vicinity are put. Members will note that this ground refers to vicinity and not locality. Members will have conducted a site visit prior to considering this application and have the benefit of other information in the application form as well as that contained in this report, and their own local knowledge to help in the consideration of the factors the policy expects to be taken into account in considering this ground, as follows:

Whether premises in the vicinity are out to any of the following uses:



- (i) Residential, in particular homes occupied by families
- (ii) leisure,
- (iii) educational establishments
- (iv) churches and other places of worship
- (v) family friendly facilities
- (vi) other sex orientated / adult premises (whether or not they are licensed / licensable)
- (vii) youth clubs
- (viii) women's refuges
- (ix) community centres
- (x) parks and other open spaces
- (xi) swimming pools
- (xii) public transport.

Officers consider this is an especially sensitive location within the City's main entertainment and transport hub. Denmark Street is a narrow road that contains one of the main exits for patrons attending the Hippodrome and is a key pedestrian route between the central area and car parking facilities. For these reasons your officers advise that your discretion to refuse the application on this ground is triggered

### 32. Ground d)(iii).

That the grant of the licence would be inappropriate having regard to the layout, character or condition of the premises in respect of which the application is made.

The policy expects the following to be taken into account:

- (i) Whether the premises are fit for the purpose proposed
- (ii) their planning status
- (iii) the general appearance to others using the locality
- (iv) whether premises are self contained
- (v) means of access and egress, whether shared with other building users (if any)
- (vi) accessibility
- (vii) sight lines
- (viii) 'hidden' areas and other places where effective monitoring may be hampered
- (ix) standard decoration and 'fit out'
- (x) visibility from the street
- (xi) facilities for smokers
- (xii) facilities for performers (changing, washing, wc, smoking areas, etc) and whether they are adequately separated from those provided for customers.

Members will be making a site visit prior to considering the report which will be of particular benefit when considering this part of the policy

33. Any conditions in the premises licence which relate expressly and exclusively to the regulation of relevant entertainment at the premises, or are inconsistent with, and less onerous than, the conditions in the sexual

entertainment venue (SEV) licence, are to be treated as if deleted from the premises licence or club premises certificate concerned from the day on which the SEV licence has effect. Should the application be granted your officers will ensure the notification of the decision makes clear the date on which the licence has effect.

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### **34. Equalities Impact**

(a) Before making a decision, section 149 of the Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

i) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.

ii) advance equality of opportunity between persons who share a relevant protected characteristic and those do not share it. This involves having due regard, in particular, to the need to:

- remove or minimise disadvantage suffered by persons who share a relevant protected characteristic.

- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);

- encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

(b) This duty places an obligation on the Licensing Committee to ensure that the need to promote equality is taken into consideration with regard to every aspect of its decision making, this will include the circumstances of each individual application, the findings of fact once the application has been considered, including the taking into account of any objections and any response the applicant may choose to make.

(c) The following paragraphs identify issues that may be considered relevant to the need to have due regard as described above. It is not intended to be an exhaustive list but aims to highlight issues that are anticipated to arise in applications for SEV licences, although it should be born in mind that each application must be considered on its own merits.

(d) Suitability of the applicant

The SEV Policy sets out a number of discretionary grounds under which a licence can be refused. The application process requires details of any convictions held by the applicant to be made known to the Licensing authority. This requirement is particularly relevant to the duty as it is imperative that the licence holder is a suitable person to hold such a licence. Should any SEV licence be granted a set of robust conditions will cover all aspects of the operation, including the protection of workers providing any activity allowed under the licence. The majority of the premises that are likely to be regulated under this regime predominantly employ or contract women and therefore it is particularly relevant that the licence holder is suitable. In addition to convictions it is equally important to consider whether the applicant has committed any relevant offences, for example breaches of any conditions on licences held under similar regulatory regimes. The applicant's experience is also an important factor as the committee needs to be satisfied of the person's ability to ensure the safety and wellbeing of performers, employees and members of the public. The committee also need to be confident of the applicant's ability to understand and adhere to any conditions imposed should any licence be granted.

(e) Character of the locality

Platinum's is located on Denmark Street just off of the centre and forms an important thoroughfare between the central entertainment/transport hub and the main car parking provision for the area. The premises is a short distance from one of the main exits from the Hippodrome . This location is in the heart of Bristol's night time economy and attracts higher levels of violent crime than other areas of the city. For this reason, following requests from the police due to the high levels of alcohol fuelled crime, this locality has been designated as a Cumulative Impact Area as defined within the Licensing Act statutory guidance. Members should consider, on the basis of the application before them, whether this is a suitable operation at this particular location. Factors to take into consideration could include the impact of the proposal on persons with protected characteristics who may be in the vicinity of the premises bearing in mind the high footfall at this location.

(f) The Premises

Members will have had the opportunity to visit the premises and view plans of the layout. The type of operation undertaken at the premises can reasonably be described as a lap dancing club and it would not be unreasonable to assume that the performers at the premises will generally be women. Members are therefore required to have due regard to the duties described above. In particular members should be satisfied that the layout of the premises provides a high level of safety for performers, consideration should be given to CCTV coverage of the premises including the quality of the images and the monitoring arrangements. This will be highly relevant in areas where, if permitted under the terms of the licence,

private dances take place. Of equal importance is the external appearance of the premises. Members need to be satisfied that any frontages are appropriate and do not undermine the duty to foster good relations between persons who share a relevant characteristic and those who do not.

### **35. Legal Implications.**

The key provisions are reflected in the main body of the report. Members are aware that "grandfather rights" to trade beyond the third appointed date are enjoyed by those existing operators who apply for a licence in the first and second rounds of applications under the new regime. This application is made by an existing operator who has a licence under the Licensing Act 2003 and who uses the premises as a sexual entertainment venue under that 2003 Act licence. Any such operator is permitted to continue to trade until his application is determined (and if the application is refused until any appeal is finally disposed of) providing the operator made his application before the third appointed day. The third appointed day is 31 January 2012.

36. Some of the information the committee needs to take into account is included in an exempt report. Members will not be able to make their determination until after both reports have been considered. Members should first consider and make findings of fact about whether or not any of the grounds of refusal apply in this particular case. The report sets out in full the grounds which may be relied upon to refuse applications and these will not be repeated in this advice. As previously advised, the proper consideration and application of those grounds involves to varying degrees the making of judgments, the finding of facts and the exercise of discretion. In a regime that features judgment of issues such as the character of a locality it is not surprising that the law will be slow to interfere with reasonable reliance on the local knowledge of elected councillors in exercising judgment. However, members will know that reliance on local knowledge in the exercise of judgment is not the same as reliance on speculative and unsubstantiated material and opinions when making of findings of fact. The latter is not permitted. Speculative and unsubstantiated allegations should be disregarded.

### **37. Ground C**

This is the ground that permits a Council to refuse a license for a sexual entertainment venue in any locality on the ground that the number of sex establishments of that kind in the relevant locality at the time the application is determined is equal to or exceeds the number which the Council considers is appropriate for that locality. In the Belfast Council case (a copy of which will be provided to Members to read prior to the meeting) Lord Hoffman stated that:

"it was said that because the Order says that the Council "may" refuse, this ground is "discretionary". But I am not sure whether that is a very helpful adjective. It would hardly be rational for the Council to decide that the appropriate number of sex shops in the locality was nil, but that it would all the same exercise its discretion to grant a licence. I think it is more accurate

to say that the question of how many sex shops, if any, should be allowed is a matter for the Council's judgment." (paragraph 6, page 2 of 19)

At its November 2011 meeting the Committee made findings as to the relevant locality within which the application site is situated and exercised its judgment as to the appropriate number for that locality. That judgment was made at a policy level, ie. not in the context of the merits of the individual applications. When applications are considered the views of objectors are taken into account and applicants are able to deploy arguments as to how the Committee's judgment ought to be exercised/its policy applied. The Committee must keep an open mind and be ready to consider if its policy judgment ought to be revised in the particular case.

The committee determining the applications in round one for the city centre, granted two of the applications and refused a third in line with its policy, that two was the appropriate number of sexual entertainment venues for the city centre locality.

### 38. Exercise of discretion

Members will understand the need to exercise the committee's discretion reasonably and for any departure from its policy to be rational. Members are well versed in the exercise of discretion in a manner that is lawful but when implementing any new regime it is helpful to revisit the judgment in the case of *Associate Picture Houses -v- Wednesbury Corporation* in this context:-

"The law recognises certain principles on which discretion must be exercised, but within the four corners of those principles the discretion is an absolute one and cannot be questioned in any court of law.

What, then are those principles? They are perfectly well understood. The exercise of such a discretion must be a real exercise of the discretion. If in the statute conferring the discretion, there is to be found, expressly or by implication, matters to which the authority exercising the discretion ought to have regard, then, in exercising the discretion, they must have regard to those matters. Conversely, if the nature of the subject matter and the general interpretation of the Act make it clear that certain matters would not be germane to the matter in question, they must disregard those matters. Expressions have been used in cases where the powers of local authorities come to be considered relating to the sort of thing that may give rise to interference by the court. Bad faith, dishonesty – those, of course, stand by themselves – unreasonableness, attention given to extraneous circumstances, disregard of public policy, and things like that have all been referred to as being matters which are relevant for consideration. In the present case we have heard a great deal of the meaning of the word unreasonable. It is true that discretion must be exercised reasonably. What does that mean? Lawyers familiar with the phraseology commonly used in relation to the exercise of statutory discretions often used the word

unreasonable in a rather comprehensive sense. It is frequently used as a general description of the things that must not be done. For instance a person entrusted with a discretion must direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters, which are irrelevant to the matter that he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting "unreasonably". Similarly, you may have something so absurd that no sensible person could ever dream that it lay within the powers of the authority. .... the example of the redhead teacher dismissed because she had red hair. This is unreasonable in one sense. In another sense it is taking into consideration extraneous matters. It is so unreasonable that might almost be described as being done in bad faith. In fact, all those things largely fall under one head. ....

### 39. Human Rights obligations

The Council is bound by section 6 of the Human Rights Act 1998 to carry out its functions in a way that is compatible with convention rights. As will be appreciated from reading the Belfast Council case, whether or not a breach occurs does not depend on the manner in which the Council reaches its decisions. This is a decision to be taken by the Court in which the issue is raised. Nonetheless the Council should strive to act compatibly with convention rights enjoyed by those affected by its decisions.

Insofar as the decision the committee is asked to make is determinative of the civil rights and obligations of the applicant in the operation of his businesses the Council's practice of affording a hearing, not just in respect of the substantive application but also in connection with the imposition of standard conditions, ought to ensure that the decision will not be judged to be incompatible with the applicant's article 6 rights.

Previously applicants have argued that refusal of their application would be incompatible with their Article 10 (freedom of expression) and Article 1 Protocol 1 (peaceful enjoyment of property) rights. These were considered in the Belfast Council case in the context of sex shops. They have yet to be considered by the Courts in the context of the regime for licensing of sexual entertainment venues but the Belfast Council case nonetheless provides some helpful guidance.

### Freedom of Expression

Article 10 confers the right to freedom of expression, including the freedom to hold opinions and to receive and impart ideas without interference by the public authority. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others.....

In the Belfast City case their Lordships decided, or were prepared to assume, that article 10 was engaged in the case albeit at a relatively low level. This presumption is hardly surprising given books, magazines and the like have a propositional content that is significant in the imparting and receiving of ideas and the holding of opinions. However the margin of appreciation for the control of pornography was recognised as being wide and in all the circumstances of the case the decision to restrict the right was not judged to be incompatible with the applicant's article 10 rights.

The buying and selling of material goods with a propositional content, that impart ideas and opinions, is a different thing to the provision and enjoyment of the various descriptions of relevant entertainment that are sought to be provided in this application. In any court in which the issue was raised by a disappointed applicant the Court would need to be satisfied that the Article 10 right was engaged at all, i.e. how is this activity relevant to the freedoms covered by the Article, including the freedom to hold and impart opinions etc.?

If engaged then any proportionate exercise of the Council's discretion, i.e. a process that balances the rights of the applicant and its customers with those of the wider community, ought to fall within the wide margin of appreciation afforded to the state under Article 10.

#### Article one of protocol one

Members will appreciate that the applicant has the benefit of a licence under the 2003 Act authorising a range of activities, including the supply of alcohol. Any decision to refuse an SEV licence does not deprive the applicant of its premises and nor does it prevent those premises from being used for a business that includes the provision of licensable activities. Nor would refusal prevent the premises being used for the provision of relevant entertainment altogether, albeit without an SEV licence this could only be provided on the occasional basis permitted under the exemption applying to occasional use, effectively no more than once a month.

Detailed advice about this convention right has been provided to the Council during the various stages of the process of implementing the new regime, in connection with the decision to adopt the amended legislation, in the making of policy and the prescribing of standard conditions and in the consideration of the policy on numbers for the locality within which this application is situated and now in connection with the consideration and determination of the individual application.

Underpinning that advice has been that the sexual entertainment venue regulatory regime is one that engages the third rule of this right (control of use) and not the second rule (property deprivation). Whether what is contemplated is the refusal of a licence or the granting of a licence subject to conditions the Council has a wide margin of appreciation when striking the balance between the applicant's rights and those of the general

interest. In this regard the Committee is referred in particular to Baroness Hale's judgment in the Belfast Council case (paragraphs 30 to 39) and also paragraphs 98 – 103 of that judgment.

#### **40. Duty to give reasons**

Where an application is refused the Council must give the applicant a statement in writing of the reasons for its decision. This must be a proper intelligible statement that explains the decision, not one that simply recites the grounds of refusal. For example, if refusal is founded on Ground C the statement should include an explanation of why the relevant locality was chosen, how its character was identified and why that character was thought to make the granting of more than the appropriate number of sexual entertainment licences inappropriate.

41. Where (as in Bristol) the Council has made regulations prescribing standard conditions every licence granted, renewed or transferred by them shall be presumed to have been so granted, renewed or transferred subject to any standard applicable conditions unless they have been expressly excluded or varied.

42. Subject to acting within the statutory constraints referred to in this report and compliance with the Councils own procedural rules, the committee is able to set its own procedure for the conduct of the meeting. In considering the application the committee must have regard to any observations submitted to them by the Chief Officer of Police and any objections of which notice has been sent to them under paragraph 8(15) of the Third Schedule to the 1982 Act. Sub paragraph 15 is set out in full in the report. All objections have been notified to the applicant to whom the Committee has afforded a right to appear before them and be heard.

43. The Committee is asked to consider whether a late objection can be received. The Committee is advised that the content of any late objections that are accepted for consideration ought to have been provided to the applicant in sufficient time to enable the applicant to consider and deal with them appropriately.

44. The Act requires that an opportunity of appearing before and being heard by a committee or sub committee must be afforded to an applicant before refusing to grant, renew or transfer a licence etc. There is no requirement to allow objectors to be heard although this may be permitted. In exercising any such discretion the Council must have regard to the risk of unfairness to the applicant. The meeting should be conducted as a hearing of the applicant's case for grant of a licence and not as an adversarial contest between the opposing views of the applicant and the objectors. In hearing from objectors the committee must ensure that the applicant's opportunity to deploy all appropriate arguments to the committee remains unimpeded. It is recommended that the committee chair set out the arrangements for enabling objectors to address the meeting and for



affording a hearing to the applicants. Standing orders should be suspended for this part of the meeting to facilitate this.

Pauline Powell  
Senior Solicitor  
For Head of Legal Services

## **APPENDICES**

Appendix A - Location Map of Premises  
Appendix B - Plan of Premises  
Appendix C – Performers code of conduct  
Appendix D – Customers code of conduct  
Appendix E - Fees  
Appendix F – Objection summaries  
Appendix G – Standard Conditions attached to SEV licences

## **RECOMMENDED:**

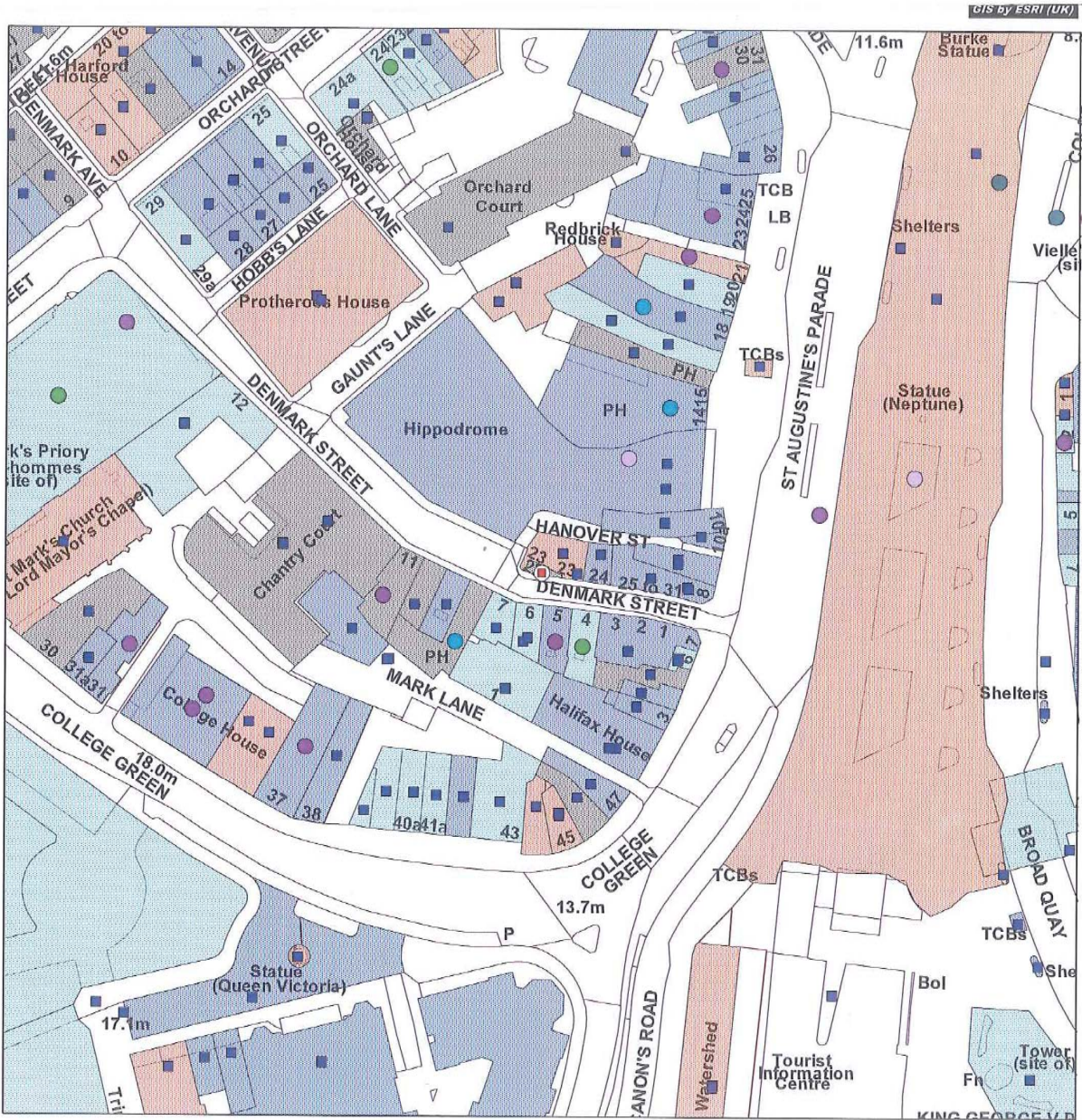
1. That the late objection referred to in paragraph 12 be accepted for consideration;
2. That having first heard from the applicant, the Committee determines the application.

## **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**Background papers: Application, letters of objection**

**Contact Officer: Myra McSherry, Licensing Administration Manager**  
**Neighbourhoods**  
**Telephone: 01179142500**

Location Map of Premises

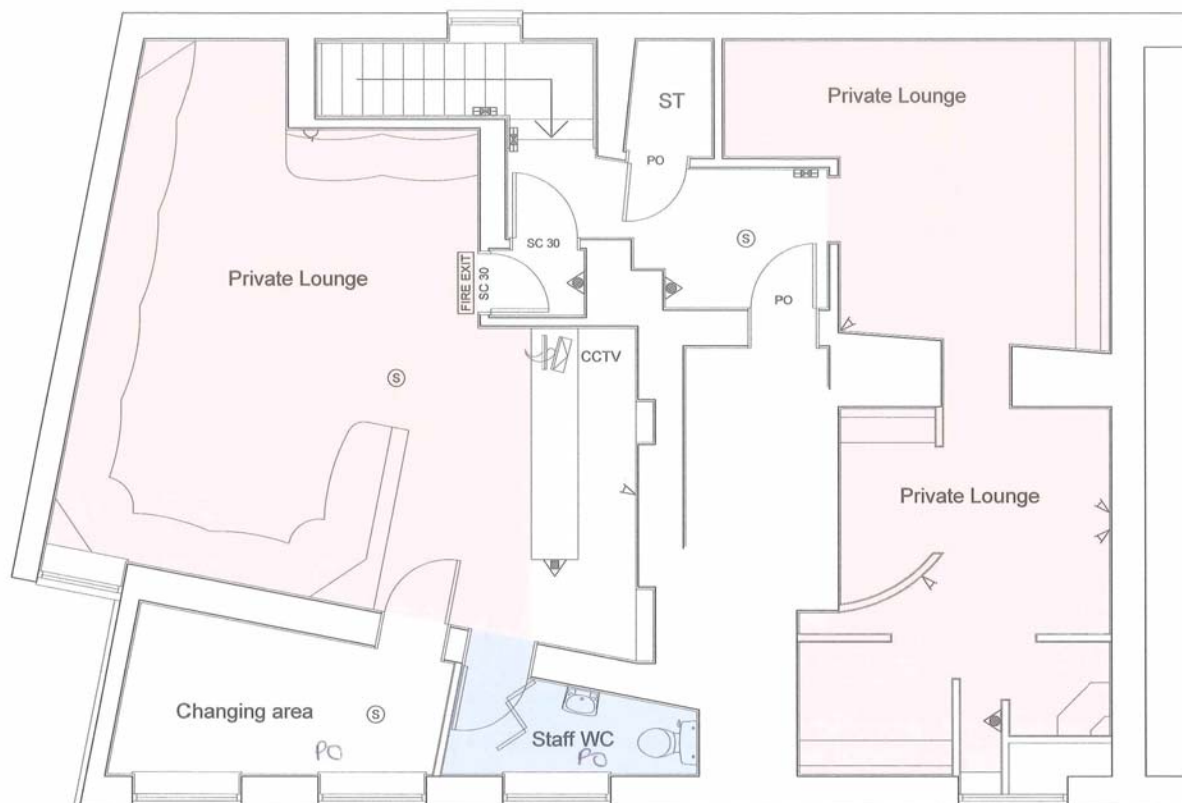


Scale : 1:1250





Do Not Scale!  
 All Dimensions Are in Millimetres Unless  
 Otherwise Stated  
 If In Doubt Ask!  
 This plan is drawn as hand/drawing



| Legend |                                     |
|--------|-------------------------------------|
|        | Fire Exit Sign                      |
|        | Emergency Light                     |
|        | Smoke Detector                      |
|        | Heat Detector                       |
|        | Extinguisher Water                  |
|        | Extinguisher Foam                   |
|        | Extinguisher CO2                    |
|        | Extinguisher Powder                 |
|        | Fire Blanket                        |
|        | Security Camera                     |
|        | Bell sounder                        |
|        | Fire alarm call point               |
|        | Push bar ironmongery                |
|        | Self closing (sheer magnet on door) |
|        | 30 Minutes Fire Resistance          |
|        | Area of alcohol consumption         |
|        | Storage of alcohol and serving      |
|        | Toilets                             |

First Floor Plan

| Drawing Revisions |      |          |    | PROJECT:                               |  | JOB NO:   | DRG NO: | REV: |
|-------------------|------|----------|----|--|--|---|---------|------|
| ISSUE             | DATE | REVISION | BY | Platinum Club, Denmark Street, Bristol |  |   | PC/03   |      |
|                   |      |          |    | DRG TITLE:                             |  | SCALE:  | DRN BY: |      |
|                   |      |          |    | First Floor Fire Plan                  |  | 1:150 @ A3  | KIM     |      |
|                   |      |          |    |  |  | DATE:   | CKD BY: |      |
|                   |      |          |    |  |  | 09/12/2011  |         |      |
|                   |      |          |    |  |  | KIM Architectural Services Ltd<br>9 Hawksmoor Close<br>Whitchurch<br>Bristol<br>BS14 0RE<br>Tel: 01275 543217 |         |      |
|                   |      |          |    |  |  |   |         |      |



## Platinum Gentleman's Club Ltd

22 Denmark Street, Bristol BS1 5DQ

### CODE OF CONDUCT

1. All dancers must ensure that their shifts are booked for the following week by Friday at 7.00pm via text to the line manager and house mother.
2. If you are unable to work on any of your pre-booked shifts, please contact the line manager and house mother by 12.00pm on that day.
3. All dancers must be at work at 8.30pm.
4. Dancers must ensure they are ready for work and on the floor by 9.00pm.
5. A gratuity fee of £5.00 will be paid by each dancer each week. This will ensure that all provisions for the dancers can be supplied.
6. One free drink will be issued to each dancer each night. Each dancer is allowed to consume alcohol on the premises and continue to work but must remain sober. If any dancer is found to be intoxicated then they will be sent home immediately and may forfeit any fees already earned.
7. Platinum Gentlemans Club has a NO drug policy. Any dancer found to be taking drugs, or bring drugs onto the premises, will be instantly dismissed.
8. All complaints about other members of staff should be taken to the house mother or manager immediately – DO NOT BITCH - it is not helpful.
9. Pole Slots – All dancers are given dance slots at the weekend. These must be slots must be kept. It is your responsibility to ensure you keep to your times.
10. Dancers are not allowed to approach any customer entering the club until they have to the bar and ordered a drink.
11. The use of mobile phones is strictly forbidden.
12. There is a no bullying policy at Platinum. Anyone found bullying will be instantly dismissed.
13. When dancing: no grinding, no straddling over the customer, no standing on the furniture and no spreading of legs once top pants have been removed. Please use your common sense. If you are unsure of any more please refrain from it until you have asked someone.
14. Do not poach another dancer's customer. It encourages bad feeling and problems in the club.
15. Bare thongs are not to be worn on the floor.
16. Exchange of numbers or personal information between customers and dancers is strictly forbidden. Any dancer found doing so will be instantly dismissed.
17. Management reserve the right to limit breaks at any given time.



THE MANAGEMENT RESERVE THE RIGHT TO CHANGE THE RULES AND REGULATIONS AT THEIR DISCRETION.

## Platinum Gentleman's Club Ltd

22 Denmark Street, Bristol BS1 5DQ

# Customer Code of Conduct

Customers will not touch/grope any dancer.  
Anyone found doing so will be removed instantly.

Drunken behaviour will not be tolerated.

Platinum Gentlemen's Club holds a NO DRUG  
POLICY. Anyone found with drugs will be  
immediately removed from the premises.



Platinum Gentleman's Club Ltd

22 Denmark Street, Bristol BS1 5DQ



**FEES**

**ENTRANCE FEE    £10.00**

**TOPLESS DANCE   £10.00**

**FULL DANCE       £20.00**

**CUBICLE DANCE   £40.00**



## Objection Summaries

| Ref.           | Approximate location of objector                | Summary of Objection  |
|----------------|---|---|
| WITHIN BRISTOL |   |   |
| 1,             | Fairfield Place<br>(an individual)              | Refers to statistical evidence provided to Safer Bristol by the Police and alleges that violence against women has increased around SEVs disproportionately to the increase in other city centre venues. Stag parties are attracted to such venues and the premises web site gives this venue as an ideal location. Stag parties often comprise large groups of men who will be drinking. Management of venues can only be reactive. Premises are situated near to the Hippodrome, student accommodation, St Mark's church and the busy city centre which is relevant to council policy.  |
| 2.             | Hill Grove<br>(an individual)                   | Objects to the normalisation of sex venues as it does not offer a positive model to young people. Fears for the welfare of women employed in such venues. Premises will not be an asset to the city.  |
| 3.             | Clifton Road<br>(an individual)                 | Premises are located directly behind the Hippodrome theatre which is frequented by families. The venue is on a side street which is one of the main access routes for the public going to the theatre from the multi storey car park. Venue is opposite at least one sauna and massage parlour of dubious reputation. The venue is located in a highly residential area and people have to pass this venue to go about their daily business as well as being disturbed by patrons of the club accessing and egressing the premises or whilst outside smoking. Venue is close to Bristol's historic library, cathedral and waterside area which attract a lot of tourists. |
| 4.             | Bower Ashton<br>(work place)<br>(an individual) | Such venues objectify women and have been shown to increase violence against women.   |
| 5.             | Birchall Road<br>(an individual)                | Concerned regarding the negative impact on the centre of Bristol. The location of the venue is in a very busy part of the city centre, close to theatres, concert halls, cinemas and galleries. It is also only a short distance from a youth hostel. The area attracts many tourists and young people. The presence of the venue will make this part of the centre feel more threatening and less safe particularly to female residents and visitors.  |
| 6.             | Albert Park Place<br>(an individual)            | Location of premises contravenes Council's policy as it is situated near places of worship, family entertainment, cultural activities and residential areas. There is an increased risk of social disorder that particularly impacts on women and girls. Women and girls find these places threatening and offensive. Women know they are likely to suffer from verbal harassment can be at increased risk of sexual assault. Such premises are likely to attract stag parties made up of large groups of men who have probably been drinking heavily. Management of adverse behaviour can only be reactive.  |

| Ref.       | Approximate location of objector   | Summary of Objection  |
|------------|--|---|
| 7.         | Denmark Street<br>(an individual)  | Denmark street is now predominantly residential with large student occupation. An English language school has recently opened on this street and as majority of students are from overseas complaints are received visiting parents as to the proximity of this venue and the 24 hour massage parlour. Some students have been relocated away from the street because of these venues. Council should not discount concerns as “moral” as this indicates a lack of commitment to safety and gender equality   |
| 8.         | Armidale Place<br>(an individual)  | Such venues encourage the sexual objectification of women. Personally experienced vicious and verbally violent abuse outside a city centre lap dancing club.  |
| 9.         | Cotham Side<br>(an individual)   | Concerned that another venue is opening in close proximity to other sex venues. Has been a victim of sexual harassment from groups of men leaving such venues and is concerned that another venue would lead to young women feeling increasingly unsafe in a public space at night.   |
| 10.        | Lansdown Road<br>(an individual)   | Objects to such an establishment being set up so close to the city centre in an area which attracts families and foreign visitors. The street feels safe at the moment but the proposed establishment runs the risk of behaviour that will constitute nuisance and deter visitors. Uses side streets when cycling at night  |
| 11.        | West Park<br>(an individual)   | Often visit venues such as the Watershed and prefers to walk home often as a lone female. Such venues undermine ability to walk alone in late evening. Has spoken to young overseas students who live in the area who find it unpleasant at night.  |
| 12.        | Central Quay North<br>(an individual)  | Such venues bring a seedy and sinister atmosphere to the street which in recent years has become a popular venue for cheerful restaurants. People attending the hippodrome exit onto Denmark Street. There is student accommodation on the street. Sleazy venues do not make people feel safe on the street.  |
| 13.<br>14. | Rosling Road<br>Rosling Road<br>(an individual)  | The location is inconsistent with the character of the city as the centre has been identified as forming Bristol's historical core. There is residential, cultural and leisure use in this location. It is contrary to the Councils obligations to uphold gender equality as it normalises men's sexual objectification of women.   |
| 15.        | An organisation whose members live and work in an area of Bristol including the BS1 post codes | Objection based on proximity to residential properties which includes a large student development. Premises are centrally situated which has been cited as forming Bristol's historic core, area attracts large numbers of visitors and families because of nearby leisure facilities. Suggestion that presence of such venues has an impact on the incidence of sexual violence towards women. Stag parties attracted to such venues which results in large groups of men who commonly abuse alcohol being in the area and causing a negative impact on levels of crime, disorder and public nuisance as well as perceptions of public safety. Elevated occurrence of violent crime and non domestic |

| Ref.                                   | Approximate location of objector      | Summary of Objection  |
|--|---------------------------------------|---|
|  |                                       | sexual crime against women in immediate vicinity of these premises, whatever the cause this is an inappropriate location for an SEV   |
| 16.                                    | Falcondale Road<br>(an individual)    | Such venues encourage the sexual objectification of women and the venues web site reinforces the image of the venue as being sleazy and seedy. Concerns as to the quality of the application and the fitness of the applicant to manage such a venue  |
| 17.                                    | Muller Road<br>(an individual)        | This is a mixed residential and commercial area. Presence of venue makes women feel cheap, it is prostitution. Not consistent with Bristol as a city of sanctuary that is supposed to welcome people of all cultures  |
| 18.                                    | Kingsley Road                         | Lap dancing clubs are harmful they encourage the objectification of women   |
| OUTSIDE OF BRISTOL                     |                                       |   |
| 19.                                    | Frampton Cotterell<br>(an individual) | Venue is opposite a brothel, men are conditioned to think such venues are normal, acceptable and harmless entertainment. Concerned regarding the impact on women's personal safety both inside and outside of the premises. Personal experience of sexual assault and verbal harassment and as a result avoids areas around such venues. Venue is in close proximity to the Hippodrome theatre and the street is used as an access route to and from it. In close proximity to a massage parlour. There is student accommodation, an English Language School and a charity close by. Presence of such venues are detrimental to the image of the city |
| 20.                                    | St Annes On Sea<br>(an individual)    | Venue is within a residential area that is also leisure and cultural activities which ruins the character. It is inconsistent with public sector duty to promote gender equality.   |
| 21.                                    | Plymouth<br>(an individual)           | Venue is too close to residential property and the Hippodrome theatre. I will feel at risk and unsafe as it attracts certain men. Such venues promote the sex trade.  |
| RECEIVED AFTER THE CONSULTATION PERIOD |                                       |   |
| 22.                                    | Clifton                               | Objection on behalf of a national women's group.<br>Application is contrary to the Council's policy in respect of numbers of such venues. High concentration of sex clubs in a small area of central Bristol instead of promoting the city as one of the most cultural , attractive, safe and vibrant gives an impression of a seedy red light district and creates a threatening environment which is highly offensive and potentially dangerous for most women.   |

## **City Council of Bristol (The Council)**

### **Regulations prescribing standard conditions applicable to licences for sexual entertainment venues**

Made on the; 25 day of February 2011.

Coming into force on the: 1 day of July 2011

1. The Council makes these regulations pursuant to its power under paragraph 13 of the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982 ("The Act").

2. In these conditions

'Audience'; 'Sexual Entertainment Venue'; and 'Relevant Entertainment'; each have the meaning given in the Act .

'Performer' means any individual who performs or actively participates in Relevant Entertainment (whether or not they are an employee) and "Performance" and "Performing" shall be construed accordingly.

'Permitted Relevant Entertainment' means entertainment falling within the description specified on the licence as being permitted at the licensed premises

'Relevant Offence' means

1. An offence under the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3.

2. A sexual offence, being an offence listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003, other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));

3. Every Sexual Entertainment Venue Licence granted, renewed or transferred by the Council shall be presumed to have been so granted, renewed or transferred subject to the standard conditions contained in the schedule unless they have been expressly excluded or varied by the Council.

## **Schedule**

A. Only Permitted Relevant Entertainment is authorised under this licence.

B. Permitted relevant entertainment may only take place on those parts of the premises as are identified on the plan annexed to the licence.

C. Relevant entertainment shall not occur in private rooms, cubicles or other enclosed areas. For these purposes a room, cubicle or other area is private unless it is completely open on one side so that activities within may be supervised from the exterior.

D. The Council shall be provided with a Code of Conduct for Performers and Rules to be observed by members of the audience.

E. The Code and Rules referred to in Condition D above shall be brought to the attention of all performers and members of the audience and reasonable measures shall be taken to ensure that they are complied with.

F. 1. At no time during the performance may there be any contact between a performer and a customer. Prior to the performance or at the completion of the performance there may be hand-to-hand payment for the performance.

2. At no time except during the performance may a performer or employee be unclothed. Immediately following the performance, the performer must dress, so that (for example) the performer may not be unclothed when seeking payment for a performance.

3. No performer or employee may at any time (and whether or not performing):
  - a. sit or lie on the lap or any other part of any customer;
  - b. kiss, stroke, fondle, caress or embrace any customer;
  - c. engage in any other contact of a sexual nature with any customer.
4. In these conditions:
  - a. "customer" means any person visiting the premises other than employees or performers, whether or not they have paid for or intend to pay for services provided;
  - b. "employee" means any person working at the venue whether under a contract of employment or some other contract;
  - c. "unclothed" means when breasts and/or genitals and/or anus are fully or partially uncovered.
  - d. "other contact of a sexual nature" means contact which must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating the customer.

G. As soon as is reasonably practicable, and in any event within seven days, the Council shall be notified of any material change in the management structure, where a material change means one which is at variance with the information provided in the most recent application for a license, or its renewal or variation as the case may be;

H. No person shall be employed or shall perform at the premises who has unspent convictions for any Relevant Offence;

I. Copies of the license and the conditions applicable to it shall be displayed on the premises in a place where it is likely to be seen by every member of the audience;

J. The licensee shall retain control over all parts of the licensed premises when used for Relevant Entertainment;

K. Customers shall be made aware of any charge for admission to the premises, and of any further charges that may be levied in connection with the provision of Relevant Entertainment, before being admitted to the premises;

L. There shall be no display either upon or outside of the licensed premises (in such a way that it is visible on the exterior) of photographs or other images which indicate or suggest that Relevant Entertainment is provided upon the premises, with the exception of any registered trade mark, trading name or trading symbol that has been provided to the Council in connection with the most recent application for licence, its renewal or variation as the case may be;

M. The licensee shall ensure that no area where Relevant Entertainment may take place can be viewed from outside the licensed premises at any time;

N. The licensed premises shall be sufficiently illuminated to ensure that usable CCTV images can be captured;

O.1. Performers shall not be permitted to share the following facilities with any members of the audience and suitable separate provision must be made;

- (i) water closet;
- (ii) washing facilities;

2. Performers and Audience shall not be permitted to share any smoking area

3. No Member of the audience shall be permitted to enter any changing area used by Performers

P. All external doors affording access to the licensed premises shall be fitted with a

device to provide for their automatic closure and such device shall be maintained in good working order;

Q. The availability of relevant entertainment shall not be marketed or advertised in 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) in any part of the Council's administrative area

R. The following shall be made available without charge to performers and the Audience:

Literature and contact names and telephone numbers of organisations that provide advice and counselling on matters relating to:-

- (i) sexual problems;
- (ii) family planning;
- (iii) sexually transmitted diseases
- (iv) rape and sexual assault.

S. (i) No telephone number, residential address, email address or other information that may facilitate further contact between performers and members of the Audience is passed from audience to performer, or vice versa; and

(ii) This prohibition shall be brought to the attention of all members of the Audience

T. (i) Performers may perform only in accordance with written contracts, which define their rights and obligations, including terms as to the nature of their performance and payment. No deduction shall be made from such payment unless permitted by the contract, and no deduction by way of penalty shall be permitted;

(ii) No relevant entertainment shall be provided by any performer unless sufficient checks have been made of documents evidencing the performer's age, identity and right to work in the United Kingdom;

(iii) Copies of all documents referred to in (i) and (ii) above shall be retained for not less than 12 months after the last provision of Relevant Entertainment by the said Performer and shall be produced to an authorised officer of the Council or a Constable upon request at any reasonable time.

U. The licensee shall exercise all due diligence and take all reasonable steps to ensure that the terms and conditions imposed on the licence are observed and complied with at all times.