



JOHN MORSE

— SOLICITORS —

Licensing Team (Temple Street)
Bristol City Council
P O Box 3176
Bristol
BS3 9FS

Our Ref: AS/MB/HAL012/0009
Your Ref:
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licensing@bristol.gov.uk

Dear Mr Carter

Sex Establishment Policy Review 2016/2017

We act on behalf of Reedbed Limited and Nightlife Bristol Limited who operate, respectively, Central Chambers at 9-11 St Stephens Street and Urban Tiger at 4 Broad Quay.

We are grateful to be given an opportunity to make a contribution, and hope that the following, brief, remarks assist the Council in its initial work on this topic.

The regulation of sexual entertainment

As the Council will know, prior to 2009 sexual entertainment was governed by the Licensing Act 2003, and therefore by the licensing objectives under that legislation. There was concern that those objectives did not cover the field in terms of the issues which have to be considered in relation to sex establishments. The resolution adopted by Parliament was to bring sexual entertainment venues within the same regime as applied to sex shops and sex cinemas. This has been a positive solution for local communities for reasons we set out below.

It is, perhaps, important to emphasise that the Act does not permit refusal on moral grounds or values. In legislating for the licensing of sexual entertainment venues, Parliament has made it

John Morse Solicitors St. Helen's House, 156 St. Helens Road, Swansea SA1 4DG

T 01792 648111 F 01792 648028 DX 39598 Swansea E mail@johnmorse.co.uk W www.johnmorsesolicitors.co.uk

Directors: John F. Morse, Andrew P. Sivertsen LLB (Hons), Laura Johnson LLB (Hons), Michelle Valerio BA Hons, Sonia McGarrigle LLB (Hons)



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abundantly clear that sexual entertainment is a lawful activity. This is further borne out by paragraph 3.23 of the Home Office Guidance on sexual entertainment venues.

It is fair to say that, in Bristol, there have been objections to our clients' licences and renewals which are, when properly understood, inadmissible objections to the nature of the activity.

It would certainly assist the efficient determination of applications for licence renewals if licensing officers could consider objections to renewal and advise whether individual objections are in fact relevant to the objectives of the legislation. Where they are not relevant, they ought to be discounted. In those cases where the only objections are on the basis of grounds which are not relevant to the legislation, there ought to be no need for a public hearing of the application for renewal. If this approach is taken, it will save legal costs for our clients and administrative costs for the Council.

The Council is also asked to make it clear in the policy that objections cannot be made on moral grounds and that any such objections will be discounted.

Standards for sexual entertainment

The regulation of sex establishments through the Local Government (Miscellaneous Provisions) Act 1982 has brought about a series of benefits for communities, as well as performers and customers. Each of these benefits can and, it is submitted, should, be reflected in a modern sexual entertainment venue policy.

The suitability test for licensees, owners and managers creates the opportunity to establish protective policies, since having such policies may be considered an incident or indicator of propriety:

- Codes of conduct for dancers. These may include rules such as no touching policies, standards of dress, exchanging details, reporting of misconduct and so forth.
- Codes of conduct for customers. These are generally the correlative of codes of conduct for dancers and ensure that customers know exactly what conduct is and is not permitted in the venue.
- Welfare policies for dancers. These may include the privacy of dressing rooms, private toilet facilities, the employment of a "house mother", protection of performers, accompanied exit arrangements and so forth.

The test for suitability of premises enables standards to be laid down in the Council's policy concerning CCTV coverage, ability to supervise premises (e.g. prevention of wholly enclosed booths), provision of proper facilities for performers, standard of toilet facilities etc.

The "locality" grounds in the Act enable Council's to impose a series of controls which minimise or even obviate any impact of the sexual entertainment use on the locality. These controls may include:

- A ban on logoed limousines.
- A ban on leafleting, advertising or other forms of touting in the public realm.
- Prevention of use of sexual imagery or language outside the premises.
- Controls on the nature of lighting to ensure that it is discrete and unobtrusive.
- Prevention of views inside the premises.
- Control of smoking areas, including supervision of smoking areas used by customers and, if performers smoke at the front of the venue, ensuring that they are segregated, discreetly dressed, and in strictly limited numbers.

The appropriate number of SEVS

The Council's current policy suggests that the appropriate number of SEVs for the city centre is two. It is submitted that there is no good ground to decrease that number. The following points are made:

1. The fact that the Council's Licensing Committee has repeatedly renewed the licences of our clients' venues demonstrates that they are not considered to have a detrimental impact on the city centre.
2. After many years of these venues trading in Bristol, the numbers of people actually objecting to renewal is extremely modest, particularly in comparison with the size of the Bristol population. Even then, a significant portion of the objections are based on moral grounds.
3. Moreover, to provide for two SEVs is certainly not excessive for a city with a population of 450,000. It cannot be said that there is over-provision.

4. The two venues provide jobs for 20 staff, 14 SIA-licensed security operatives and 40 performers, nearly all of whom are local to Bristol.

5. The venues contribute significantly to the local economy. For example:

- They pay £32,496.80 in rates.
- They pay £146,969.03 in VAT.
- They pay £60,491.38 in PAYE & NI.
- They pay £82,180.10 in corporation tax.

NB the above figures are commercially confidential and should not be publicly disclosed.

6. Moreover, the venues are subject to large investments which are dependent on the continuation of their licences. For example:

- The lease for Urban Tiger is for 10 years at an annual rent of £60,000 and the lease for Central Chambers is for 10 years at an annual rent of £42,000.
- In addition £25,000 has recently been spent at Urban Tiger upgrading the front of house facilities and a further £20,000 will be spent on the back of house facilities including toilet areas and changing rooms for the dancers and also putting in a shower for the dancers' sole use.
- £32,000 has also been spent at Central Chambers on new seating areas, upgrading the dancing facilities and installing new fire doors, windows and mirrors.

NB the above investments are commercially confidential and should not be publicly disclosed.

7. The businesses are entitled to protection under Article 1 of the First Protocol of the European Convention on Human Rights.

8. Further, the performers themselves are entitled to protection under section 149 of the Equality Act 2010. Closure of SEVs in Bristol would involve them losing their livelihoods as sexual entertainment performers in the city.

For the above reasons, it is suggested that there are strong, positive grounds not to remove the right of our client's businesses to continue to operate.

If, however, the Council has it in mind to make a provision in its policy to reduce the appropriate number of SEVs in the city centre, it may be aware that, in some other council

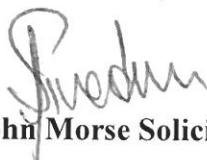
areas, policy provision is made for the preservation of existing business as an exception to the policy provided they are well-run, so as to avoid arguments that their closure involves a breach of Convention and legal rights. A form of wording which has been used elsewhere is:

“The Council recognises that there are established operators who have traded for a long period of time. In deciding whether to make an exception to any provision within this Sex Establishment policy, including the nil policy and any other policy consideration within this policy, the Council will give due weight to the fact, if proved, that the applicant is an established operator whose establishment is a long-standing, well-run sex establishment which has not generated significant levels of concern among the community or statutory authorities.”

In this way, while existing rights are preserved, the Council is enabled to make a policy which indicates that no further licences are likely to be granted and that closure of the existing premises will not be treated as making way for a newcomer to take its place.

It is hoped that these observations are found to be of assistance.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'John Morse', written in a cursive style.

John Morse Solicitors