

Committee :	Date	Classification	Report No.	Agenda Item No.
Extraordinary Licensing Committee	14 April 2015	Unclassified	LC 12/145	

Report of : David Tolley Head of Consumer and Business Relations Originating Officer: Andrew Heron Licensing Officer	Title: Local Government (Miscellaneous Provisions) Act 1982 (as amended) Application for a Sexual Entertainment Venue Licence for Whites Gentleman's Club, 32-38 Leman Street, London, E1 8EW Ward affected: Whitechapel
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1.0 Summary

Applicant: **Whites Venues Ltd.**
 Name and Address of Premises: **Whites Gentleman's Club**
32-38 Leman Street
London
E1 8EW

Licence sought: **Local Government (Miscellaneous Provisions) Act 1982 (as amended)**
Application for a Sexual Entertainment Venue Licence

Objectors: **Local Residents**
Ward Councillors

2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

Andrew Heron
020 7364 2665

3.0 Background

- 3.1 This is an application made by Whites Venues Ltd. for a Sexual Entertainment Venue licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by reg. 47 (4), Provisions of Services Regulations 2009 'the service regulations') and the Policing and Crime Act 2009 for Whites Gentleman's Club, 32-38 Leman Street, London, E1 8EW.
- 3.2 A licence from the Council is required for the use of a premise as a sex Establishment. A sexual entertainment venue is any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Relevant entertainment means:

- any live performance; or
 - any live display of nudity;
which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 3.3 The premises is currently granted a licence under the Licensing Act 2003 that permits sexual entertainment. A copy of the existing licence is enclosed as **Appendix 1**. The licence was originally granted on 13th March 2006 and was amended further to a review on 21st June 2011 and a minor variation on 15th December 2014.

The licence granted the following licensable activities and opening hours:

The sale by retail of alcohol:

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)

Regulated Entertainment consisting of Recorded Music, performances of dance, Provision of facilities for dancing:

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)

Late Night Refreshment:

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)

The opening hours of the premises:

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)

- Note: However, New Year's Eve is subject to the Regulatory Reform (Special Occasion Licensing) Order 2002. Which means that while that order is in effect the premises may remain open for the twelve hours between 23:00hrs on New Year's Eve and 11:00hrs on New Year's Day.
- 3.4 This application is made in accordance with the transitional provisions as set out in the Policing and Crime Act 2009 (Commencement No. 1 and Transitional and Saving Provisions) (England) Order 2010. The application is to permit the premises to operate as a sexual entertainment venue with opening hours as follows:
- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)
- 3.5 A copy of the application is enclosed as **Appendix 2**.
- 3.6 The applicant describes the premises as follows:

"The premises are situated in a purpose built bar on the ground floor of an office block located on the border of Tower Hamlets and the City of London. The premises has for 10 years offered striptease entertainment under its current licence.

The premises consist of a main bar area, a number of private booths and seven private VIP suites. We would invite the Committee and those present at the Licensing Committee meeting to view the layout in further detail in the plans provided with this application.

Topless entertainment is offered on a stage in the bar from 22:00 onwards. Striptease is offered in the private booths and VIP suites. All entertainment is provided by self-employed entertainers and no money is passed to the entertainers by customers; instead, transactions are carried out by way of a voucher system, which customers can purchase from the premises.

The applicant will be happy to clarify any of the above or answer any further questions regarding the operation of the premises and/or more specific details relating to the layout at the Licensing Committee meeting."

- 3.7 Members should note that the two regimes run concurrently therefore the premises licence could effectively run without the SEV in operation, if alcohol and regulated entertainment was solely taking place.
- 3.8 Maps of the premises and a site location plan are available in **Appendix 3**.

4.0 Layout of the Premises

- 4.1 A layout plan of the premises is available in **Appendix 4**. The premises was visited on 18th February 2015, attended by a Licensing Officer a Constable from the Metropolitan Police, Licensing Division and a Trading Standards Officer. A checklist of questions was completed with the Applicant. A copy of that checklist is available in **Appendix 5**.

The checklist covered the following points:

- Whether the interior of the premises is visible from the outside
- Approved access to dressing rooms
- External advertising
- CCTV Coverage
- Functionality of the CCTV

- 4.2 In conclusion from that visit, the Licensing Officer was mainly satisfied with the premises, however, it was noted that the current CCTV system did not adequately cover the private booth parts of the premises. There were significant blind spots and at times, no visibility of the booths or multiple themed rooms. The Officer predominately bore in mind the LBTH Standard Conditions for SEV premises (see **Appendix 8**), most specifically Condition 13:

CCTV shall be installed to cover the inside and the outside of the premises covering all areas to which the public have access, including private performance areas and booths, entrances and exits but excluding toilets. All cameras shall continually record whilst the premises are open to the public and the recorded images shall be kept available for a minimum of 31 days Recorded images shall be made available to an authorised officer or a police officer together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours' notice.

The Applicant explained at the meeting that he would look to install additional CCTV and would supply a replacement plan of the premises to demonstrate where additional cameras will be installed. The Applicant advised that he would be happy for the Licensing Authority to return to the premises once the new CCTV had been installed to make sure that it was to the satisfaction of the Authority.

Additionally, there were concerns in relation to the availability of clear pricing for customers in relation to both drinks and the cost of individual dances from performers working within the club. The Licensing Authority and Trading Standards have received multiple complaints of overcharging (see 15.1), and agree that pricing at the premises is unclear and that customers don't potentially have enough information to make informed transactional decisions. Members may therefore wish to

consider the application of additional conditions as suggested below in 6.2.

It was noted that the exterior of the premises does have advertising, which Members may wish to consider such suitability to remain.

At that meeting, the Applicant made claims of contact from a third party alluding to be an LBTH insider. Mr Stewart advised that during the SEV process, he had been contacted from someone claiming to have 'influence over the Tower Hamlets Licensing Committee'. Mr Stewart advised that he had been approached via telephone with a follow up email and had not engaged the services of the individual. Requests for copies of this correspondence have been made to the Applicant several times and also to the Applicant's legal representative, but a response has not been forthcoming. It is believed that this correspondence has been deleted. This comment has been included in the report for matters of transparency and to ensure that no claims of prejudice can be made against the Council in its process of determination.

4.3 Photographs of the premises are available in **Appendix 6**.

5.0 **Adverts and Flyers**

5.1 Copies of the adverts and flyers used to promote the premises are included at **Appendix 7**.

5.2 The premises does have advertising boards on the exterior of the ground floor of the building which are visible in the photographs of the premises in Appendix 6.

5.3 The premises also have a website: <http://www.clubwhites.co.uk/>

6.0 **Standard Conditions**

6.1 The Council has adopted Standard Conditions that act as default conditions that are attached to all Sexual Entertainment Venue Licences. The Standard Conditions are generally considered to be appropriate for Sexual Entertainment Venues, with leeway provided for these to be varied by Members of the Licensing Sub-committee, or an operator applying to vary those conditions to suit individual circumstances. These are appended at **Appendix 8**.

6.2 Members have discretion to modify the standard conditions or add appropriate conditions. Members may wish to consider the application of additional conditions in order to address the concerns of the Licensing Authority and Trading Standards in relation to pricing within the venue. Examples of conditions are set out below as a result of consultation with LBTH Trading Standards.

Display of comprehensive tariff

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices, including charges for the company of a hostess /dancer/companion and the hire of a room and or a booth (the tariff). The tariff shall include the price of all drinks available.

Entrance and reception area

The tariff shall be prominently and legibly displayed in such a position that it can easily and conveniently be read by customers before paying any fee for admission to the premises;

At each bar

The tariff shall be prominently and legibly displayed at each bar in the premises;

On each Table

The tariff shall be prominently and legibly displayed on each table

Room and Booths

The tariff shall be prominently and legibly displayed in each room and or booth

Tariff drawn attention to customers prior to transaction

The tariff shall be drawn to the attention of every customer before they have paid any fees or charges.

Customer only charged for items on tariff

No charge shall be made to any customer except for a service and for an amount shown on the tariff.

Customer made aware of and signs receipt for cost of room and booth hire

No charge shall be made to the customer for any room and booth hire unless the customer has signed a receipt having first been made aware of the cost.

Customer made aware of the cost of drink provided for to a dancer/hostess/companion

No charge shall be made to the customer for any drink provided for a hostess or companion unless the customer has specifically ordered it, having first been made aware of the cost.

7.0 Codes of Conduct and Policies

- 7.1 The applicant has provided Codes of Conduct and policies as required by the Standard Conditions, which are:

- Code of Conduct for Dancers and Performers
- House Rules (governing the conduct of customers)
See **Appendix 9**
- Included is also the premises' Dancers and Performers Welfare Policy

7.2 During the compliance check visit, it was confirmed that the Code of Conduct for Performers was available in the dressing rooms. It was also confirmed that the House Rules was available in the public area of the premises.

7.3 If the application is granted subject to the Standard Conditions, the codes and policies will have to meet the requirements set out in the Standard Conditions.

7.4 Members have discretion to modify the standard conditions or add appropriate conditions.

8.0 **Assessment and information for the vicinity**

8.1 **Appendix 10** is a map of the Licensing Service's determination of the vicinity around the premises.

8.2 Determination of the "use" of other Premises in the "vicinity" - vicinity" is likely to be a narrower and smaller area than the "relevant locality" much will depend upon the physical location of the premises, its appearance and upon the nature and hours of its operation.

8.3 Below is a list of notable premises within vicinity as observed by Licensing Officer visiting the area on foot and using GIS maps:

Residential accommodation	<p>Commercial office space is situated directly above the premises. Including large office block next door.</p> <p>The locality is a mix of residential & business/office space.</p> <p>There are two large housing developments under construction Goodmans Fields junction of Alie Street/Leman St and & Aldgate Place junction of Buckle St/Leman Street</p> <p>The vicinity is mainly business/office blocks</p> <p>Aside from the new developments, residential accommodation is mainly situated West Tenter St; North Tenter St; East Tenter St; St Mark St and Scarborough Street</p>
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	No. 65 Leman St houses 617 rooms for student accommodation
Schools	English Martyrs Catholic Primary School, St Mark St, E1 8DJ
Premises used by children and vulnerable persons	Job Centre, 83-85 Mansell Street, E1 8AP(with entrance at West Tenter Street)
Youth community and leisure centers	Anytime fitness, 18 Alie Street, E1 8DE David Lloyd Fitness Centre, 1 Alie Street, E1 8DE
Religious centers and public places of worship	St Georges German Lutheran Church, 55 Alie Street, E1 8EB Church of English Martyrs, Prescott Street, E1 8BB
Access routes to and from premises listed above	The premises sit on the west side of Leman Street(A1202),busy access road to the City. There are a number of bus routes, as well as night buses. Aldgate East Tube Station is a 2 minute walk away with Aldgate station and Tower Hill stations also nearby
Existing licensed premises in the vicinity	<u>Leman Street</u> Public House: Oliver Conquest, 70 Leman Street, E1 8EU Supermarket: Sainsbury, Unit 2, Southwest Block, Goodman's Fields, Leman Street, E1 8EJ Restaurant and Public House: The Old Dispensary, 19a Leman Street, E1 8EN Public House: Black Horse PH, 40 Leman St, E1 8EU <u>Alie Street</u> Public House: White Swan, 21 Alie Street, E1 8DA Hotel: Thyme (Premier Inn), Goodmans Fields, Alie Street, E1 8DE

	<p>SEV Premises: Charlie's Angels, 30 Alie St, E1 8DA</p> <p><u>St Mark Street</u></p> <p>Restaurant: Halal Restaurant, 2 St Mark Street, E1 8DJ</p> <p>Supermarket: City Food Store, 8 St Mark St, E1 8DJ</p> <p><u>Mansell Street</u></p> <p>Supermarket: Sainsbury, 27 Mansell Street, E1 8AA</p>
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9.0 **Assessment and information for the Locality**

9.1 **Appendix 11** contains the Ward Profile of Whitechapel to provide members with details in relation to the locality of the premise.

9.2 What is the "relevant locality" in respect of the current application? The area has been assessed to have commercial character.

- The relevant locality was assessed as being within a 100 metre radius centred on the premises, 32-38 Leman Street.
- The premises sits on the A1202 (Leman Street) which junctions with Commercial Road and Whitechapel High Street which are red routes and sit on one of the main routes into Central London and out to the East.
- The vicinity is a mix of commercial and residential accommodation

9.3 What is the "character" of the relevant locality in respect of the current application? The area has been assessed to have a mixed residential and commercial character with about 5.8% of the Borough's residents

- The premises is in Whitechapel Ward.
- The Ward Profiles downloaded from the Council's website are appended.
- The Ward abuts the City of London. The area is mixed residential/commercial and has around 5.8% of Borough's resident population.

10.0 Other Sexual Entertainment Venues

10.1 The following premises have applied for Sexual Entertainment Venues under the new licensing Regime

Charlie's Angels	30 Alie Street, London, E1 8DA
Metropolis	234 Cambridge Heath Road, London, E2 9NN
Nags Head	17-19 Whitechapel Road, London, E1 1DU
Whites Gentleman's Club	32-38 Leman Street, London, E1 8EW
White Swan	556 Commercial Road, London, E14 7JD

11.0 Consultation

11.1 The application has been consulted on in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and the Tower Hamlets Sexual Entertainment Policy.

This has included:

a) A site notice at the premises displayed by the applicant during the required period. A copy of the notice is appended as **Appendix 12**.

b) A press advert was placed in the Docklands and East London Advertiser on the December 4th 2014 by the Applicant, which again is appended as **Appendix 13**.

11.2 The following is a list of those also consulted in regards to the application:

- The Police
- The Fire Brigade
- Building Control
- Health and Safety
- Ward Councillors
- Development Control Team
- Local residents living within 50m of the premises

12.0 Responses to the Consultation

12.1 The Police were consulted, please find below a summary of their comments.

- None

12.2 The Fire Brigade were consulted, please find below a summary of their comments.

- None

12.3 The Council expects the premises to have planning consent for the intended use and hours of operation, or otherwise have lawful planning status before making an application for a new licence. Building Control were consulted, please find below a summary of their comments.

- None, therefore it is assumed that all planning permissions are acceptable.

12.4 Health and Safety were consulted, please find below a summary of their comments.

- None

12.5 Ward Councillors were consulted, please find below a summary of their comments, see **Appendix 14**.

- Cllr Abdul Asad and Cllr Aminur Khan have made representation to two SEV venues within the Whitechapel Ward, combined into a single representation.
- They have concerns regarding the effect that these venue may have on the local area; additionally, many residents in the surrounding areas - in particular Scarborough Street, Gowers Walk, Mansell Street and Alie Street, had voiced their concerns, especially with its proximity to Harry Gosling Primary School and English Martyrs Catholic Primary school.

12.6 Development Control Team were consulted, please find below a summary of their comments.

- None

13.0 Local Residents

13.1 Local residents living within 50m of the premises were consulted, please find below a summary of their comments (redacted copies all representations are available in **Appendix 15**). In summary, objectors have stated the following:

- A belief that live nudity increases prostitution, crime and drug use in the locality;
- That the nature of the business is no longer appropriate to its location;

- The premises location in proximity to residential accommodation;
- The premises location in proximity to student accommodation;
- The premises location in proximity to hotels;
- The premises location in proximity to a local school;
- That in relation to the school, attending students must walk past the venue when it is open for dancing.

13.2 A person making a representation must clearly state their name, address, and the grounds for objecting to the application and indicate whether they consent to have their name and address revealed to the applicant. All objectors for this application asked not to have their names and addresses revealed to the Applicant. Copies of redacted representations were available to the applicant prior to the publication of this report.

13.3 The Council will not consider objections that are frivolous or vexatious or which relate to moral grounds (as these are outside the scope of the Act). All the representations received have been included in this report; Members may wish to assess the validity of the content of each objection.

13.4 Late representations may be admissible at the discretion of the Council if there's sufficient reason to indicate that applicants will not be significantly prejudiced by the decision to allow a late objection to be considered. In making such a decision the Council will take into account:

- the length of the delay;
- the amount of time that the applicant has to consider the representation before the hearing date;
- if other representations have been received before the deadline.

14.0 **Summary of Premises and Licence History**

14.1 A copy of the existing premises licence is available in **Appendix 1**.

14.2 The current licence holder is: Whites Venues Limited, 32-38 Leman Street, London, E1 8EW.

14.3 The current Designated Premises Supervisor is: Mr David Stewart.

15.0 **Complaints and Enforcement History**

15.1 The premises has received the following complaints in the last 24 months:

Date	Complainant	Nature of Complaint
29/08/2013	Patron	Believes the premises spikes drinks so that

		people have no idea how much they're paying. He paid £9,000. Complainant referred to Police.
23/09/2013	Patron	Complaint that the premises refuses to sell single measures of spirits, only doubles for £8.00
27/11/2013	Patron	Complaint of overcharging. Charged £7,500 on credit card in two hours. Received advice from Trading Standards in relation to making a civil claim against the premises
17/12/2013	Licensing Authority	Visit to premises found a roulette table and chips, without a relevant Gambling Licence. A warning letter sent 16/01/2014 asking for its removal was sent asking for removal.
06/01/2014	Anonymous Public	Complaint of premises regularly opening beyond licensed hours, to 07:00hrs. Complaint of fighting outside the premises. Fear of the premises owners' potential retribution.
16/01/2014	Police	<p>Evidence of doormen acting violently on 13/12/13 where male ejected, taken to the floor outside, restrained and had his shoes removed and then marched out of sight of CCTV to the side of premises. At meeting at Limehouse Police Station on 16/01/2014, premises management explained that the male had threatened to glass people, was violent, and had shoes taken off to lower his confidence.</p> <p>Issue about loss of 4 seconds on the CCTV timings. Also shown footage from 21/12/13 and an extensive brawl. Inspector Weeden commented there was evidence of an affray.</p> <p>Minor Variation agreed: Extra CCTV coverage, exclusion of door staff on brawlnight and high-viz security.</p>
28/01/2014	Patron	Complaint that he was overcharged without being told prices. Charged £4,500 for a dance in a private room. Trading Standards advised as to make a civil claim.

10/02/2014	Patron	Complaint that he was overcharged. Charged +£5000 for two private dances. Patron advised by the trader that he had made these payments as tips to the dancers. Trading Standards advised as to make a civil claim.
28/02/2014	Patron	Complaint that he was overcharged. Complainant agreed £600 for a dance and a bottle of champagne, but was charged £4,500. Trading Standards advised as to make a civil claim.
31/03/2014	Patron	Complaint that he was overcharged. Complainant agreed £24 per dance or £125 for half an hour. Was charged £10,500 for that half hour. Trading Standards advised as to make a civil claim.
28/04/2014	Anonymous	Complaint that the premises is regularly operating beyond its licenced hours.
01/05/2014	Patron	Complaint that he was charged for drinks and company of girls, but was so drunk he did not have the capacity to contract.
16/05/2014	Patron	Complainant says £10,000 was taken from his credit card without his knowledge. Referred to Police re. Potential fraud.
20/11/2014	Patron	Complaint about the general running of the club. That he regularly witnesses customers being taken advantage of financially and that they are plied with alcohol. The complainant claims that the premises is mismanaged and that the licence holder does not make themselves available to complainants. Advice letter sent in response.
08/12/2014	Patron	Complaint that his card was being misused. He was charged £2000, thought failed transactions for £5,000 and £5,000 had been attempted. Complains that he was intoxicated and therefore would have reduced capacity. Referred to Police re. Potential fraud.
08/12/2014	Patron	Complaint of payments taken from card -

		£1,800 and £460 without permission. However, was intoxicated at the time.
04/03/2015	Patron	Complainant claims to have been overcharged £1,430. Alleges that rohypnol may be used by the premises. Advice provided by Trading Standards.

15.2 The premises has received the following visits by the Local Authority in the last 24 months:

Date	Authority (TS/Lic)	Nature of visit
08/03/2013	Trading Standards	Checking lawful measures being used. All ok.
13/09/2013	Licensing and Police	Operation Condor – premises visited under joint action, full premises licence check not carried out. No further action taken.
14/12/2013	Licensing and Police	Operation Condor – premises visited under joint action, full premises licence carried out, all ok.
27/03/2014	Trading Standards	Checking lawful measures being used. All ok. Also enquired as to how payments for dances are made – advised The dancer and customer arrangements in the rooms are a private matter in private rooms.
18/02/2015	Licensing, Trading Standards and Police	Compliance visit for SEV application for Licensing. Current CCTV inadequate. For full report, (see Appendix 5). Trading Standards discussed complaints in relation to patrons being potentially overcharged, concerns that the costs are not clear.
24/02/2015	Trading Standards	Visit in relation to potential overcharging of patrons – CCTV of payments viewed. It was decided that pricing was not clear to customers and that this would be addressed by asking the Licensing Committee to add conditions in relation to pricing on the SEV licence. (see 6.2)

15.3 The premises has been subject to the following enforcement actions in the last 24 months:

Date	Authority (TS/Lic)	Nature of Enforcement
None	N/a	N/a

16.0 Policy - Appropriate Number of Sexual Entertainment Venues

16.1 The Council has determined that there are a sufficient number of sex shops, sex cinemas and sexual entertainment venues currently operating in the borough and it does not want to see an increase in the numbers of premises that are currently providing these activities.

16.2 The Council intends to adopt a policy to limit the number of sexual entertainment venues in the borough to nil however it recognises that there are a number of businesses that have been providing sexual entertainment in Tower Hamlets for several years. The Council will not apply this limitation when considering applications for premises that were already trading with express permission for the type of entertainment which is now defined as sexual entertainment on the date that the licensing provisions were adopted by the authority if they can demonstrate in their application:

- High standards of management;
- A management structure and capacity to operate the venue;
- The ability to adhere to the standard conditions for sex establishments.

16.3 The Council will consider each application on its merit although new applicants will have to demonstrate why the Council should depart from its policy. Furthermore if any of the existing premises cease trading there is no presumption that the Council will consider any new applications more favourably.

17.0 Home Office Guidance

17.1 The Home Office issued guidance to local authorities in March 2010 to assist local authorities in carrying out their functions under the Act.

17.2 The Council can refuse applications on grounds related to an assessment of the relevant locality. A licence can be refused if either, at the time the application is determined the number of Sexual Entertainment Venues, or Sexual Entertainment Venues of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a Sexual

Entertainment Venue would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

17.3 The decision regarding what constitutes the 'relevant locality' is a matter for the Council. However, such questions must be decided on the facts of the individual application.

17.4 Once the Council has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, Sexual Entertainment Venues, or Sexual Entertainment Venues of a particular kind, it considers appropriate for that relevant locality.

18.0 Licence Conditions

18.1 Once the Council has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or standard conditions applicable to all Sexual Entertainment Venues, or particular types of Sexual Entertainment Venues.

18.2 Where the Council decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

18.3 Most sexual entertainment venues will require a Licensing Act 2003 licence as well as a Sexual Entertainment Venue licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on the each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licences or clubs premises certificate and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

18.4 In many cases licences granted under the 2003 Act to existing operators will contain conditions that relate expressly and exclusively to the provision of relevant entertainment. Such a condition might prohibit contact between a performer and customer during a lap dance. In these cases, in order to avoid duplication, where conditions on premises licences or club premises certificates relate only to the provision of

relevant entertainment, they shall be read as if they were deleted from the 3rd appointed day onwards.

- 18.5 In cases where conditions on a premises licence or clubs premises certificate are inconsistent with, and less onerous than, the conditions in the licence granted under the 1982 Act they shall likewise be read as though they have been deleted.

19.0 **Sexual Entertainment Venues and Determination**

19.1 Tower Hamlets Licensing Authority has received advice in relation to the determination of an application, Members would be wise to take a ten-point approach and provide answers to the following:

1. Determine the extent, nature and content of the “Relevant Entertainment”
2. Consider the Mandatory Grounds of refusal – are these engaged?
3. Discretionary Grounds (Internal): the ‘people’: Consider the suitability of the Applicant and other persons involved; are they suitable to hold and operate a Sexual Entertainment Venue licence?
4. Discretionary Grounds (Internal): the ‘premises’: Consider the suitability of the premises for a Sexual Entertainment Venue licence; is the premises suitable for the operation of the proposed relevant entertainment?
5. Discretionary Grounds (External): What is the “vicinity” in respect of the current application?
6. Discretionary Grounds (External): What are the uses of other premises in the vicinity in respect of the current application?
7. Discretionary Grounds (External): What is the “relevant locality” in respect of the current application?
8. Discretionary Grounds (External): What is the “character” of the relevant locality in respect of the current application?
9. Is a Sexual Entertainment Venue of the type contemplated in the application appropriate having regard to (i) the premises; (ii) the character of the relevant locality and (iii) the use of premises in the vicinity?
- 10.a Discretionary Grounds (External): What is the appropriate number – regardless of the LBTH/Policy Presumption – of Sexual

Entertainment Venues (collectively & by type) in the relevant locality of the current application?

- 10.b Is the LBTH/Policy engaged by the current application? (b) Where the LBTH/Policy is engaged has the applicant established that the current application is an exception to that policy?

19.2 A copy of LBTH Sexual Entertainment Venue Policy is produced in **Appendix 16** for Member's information.

20.0 Legal Comments

20.1 The Council may refuse an application for the grant or renewal of a licence on one or more of the grounds specified below (Sch 3 para 12(1) LGMPA ('the Act'), as amended by reg 47 (4), Provision of Services Regulations 2009):

20.2 The mandatory grounds for refusal are as follows:

- (a) the applicant is under the age of 18;
- (b) that the applicant is for the time being disqualified from holding a licence;
- (c) that the person is a person other than a body corporate, who is not resident in the U.K. or was not resident in the U.K. throughout the six months preceding the date of the application;
- (d) that the applicant is a body corporate which is not incorporated in the U.K; or
- (e) that the applicant has been refused a sex establishment licence for the premises within the twelve months preceding the date of the application and the refusal has not been reversed on appeal.

20.3 The Committee has discretion to refuse the application if any of the following grounds for refusal apply under para. 12(3) of Schedule 3 of the Act.

The discretionary grounds for refusal are as follows:

- (a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, renewed or transferred, the business to which it relates would be managed by or carried on for the benefit of a person other than the applicant who would have been refused a licence if they had applied themselves;
- (c) the number of sex establishments exceeds the number or is equal to the number which the council consider is appropriate for that locality; or
- (d) the grant or renewal of licence would be inappropriate because of:
 - i. the character of the relevant locality;
 - ii. the use to which the premises in the vicinity are put; or
 - iii. the layout, character or condition of the premises, vehicle, vessel or stall.

(In relation to premises, 'the relevant locality' means the locality where the premises are situated).

20.4 There is a right of appeal to the Magistrates' Court, as set out in para. 27 of Schedule 3 of the Act. An appeal against the decision of a Magistrates' Court may be brought to the Crown Court. In addition, the decision of the Committee may be appealed on established public law principles.

20.5 The Committee should only consider those comments within the letters of objection or made orally at the hearing which are relevant to the mandatory or discretionary grounds for refusal. Comments contained within the letters of objection or orally at the hearing which relate to moral grounds, for example, must not be considered by the Committee.

20.6 The Council's legal officer will give advice at the Hearing.

21.0 Finance Comments

21.1 There are no direct financial implications arising directly from the report. However, there are possible cost implications if the Decision was appealed to the Magistrates' Court, Crown Court or if a Judicial Review was lodged. Licence fees are expected to cover the cost of administration and compliance.

22.0 Appendices

Appendix 1	A copy of the existing licence
Appendix 2	A copy of the application
Appendix 3	Maps of the premises and locality
Appendix 4	A layout plan of the premises
Appendix 5	Compliance Visit Checklist
Appendix 6	Photographs of the premises
Appendix 7	Copies of the adverts and flyers used to promote the premise
Appendix 8	LBTH Standard Conditions list
Appendix 9	Codes of Conduct
Appendix 10	Vicinity Map
Appendix 11	Ward Profile
Appendix 12	Copy of Site Notice
Appendix 13	Copy of Press Advert
Appendix 14	Representations by Cllr Asad and Cllr Khan
Appendix 15	Representations by Members of the Public
Appendix 16	Copy of LBTH SEV Policy