



Meeting of the

EXTRAORDINARY LICENSING COMMITTEE

Wednesday, 8 January 2014 at 6.30 p.m.

A G E N D A

VENUE

Room MP701, 7th Floor, Town Hall, Mulberry Place, 5 Clove Crescent,
London, E14 2BG

Members:	Ward Represented
Chair: Councillor Carli Harper-Penman	Bow East;
Vice-Chair: Councillor Peter Golds	Blackwall & Cubitt Town;
Councillor Khales Uddin Ahmed	Bromley-By-Bow;
Councillor Rajib Ahmed	East India & Lansbury;
Councillor David Edgar	Limehouse;
Councillor Marc Francis	Bow East;
Councillor Ann Jackson	Bow West;
Councillor Denise Jones	St Katharine's & Wapping;
Councillor Md. Maium Miah	Millwall;
Councillor Joshua Peck	Bow West;
Councillor David Snowdon	Millwall;
4 Vacancies	

Committee Services Contact:

Simmi Yesmin, Democratic Services,

Tel: 020 7364 4120, E-mail: simmi.yesmin@towerhamlets.gov.uk

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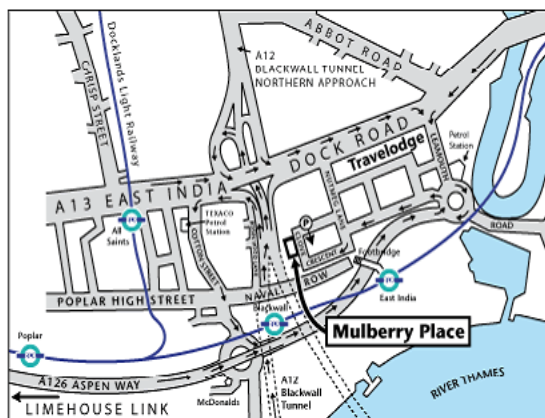
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LONDON BOROUGH OF TOWER HAMLETS

LICENSING COMMITTEE

Wednesday, 8 January 2014

6.30 p.m.

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST (Pages 1 - 4)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Monitoring Officer.

	PAGE NUMBER	WARD(S) AFFECTED
3. ITEMS FOR CONSIDERATION		
3.1 Consideration of the Adoption of the Sexual Entertainment Licensing Regime, Policing and Crime Act 2009 -Update	5 - 62	All Wards

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Agenda Item 2

DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

Interests and Disclosable Pecuniary Interests (DPIs)

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

Effect of a Disclosable Pecuniary Interest on participation at meetings

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

Further advice

For further advice please contact:-

John Williams, Service Head, Democratic Services, 020 7364 4204

APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

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Agenda Item 3.1

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Committee	8th January 2014	Unclassified	LC 08/134	

Report of Consumer and Business Regulations Originating Officer: David Tolley – Head of Consumer and Business Regulations	Title Consideration of the Adoption of the Sexual Entertainment Licensing Regime, Policing and Crime Act 2009 -Update
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1 SUMMARY

- 1.1 The Licensing Committee, on the 8th October 2013, requested for an extraordinary meeting to be held to discuss the proposed fees structure for sexual entertainment venues. This report covers this request and gives the Licensing Committee the option of reconsidering its decision not to adopt the legal framework to licence sexual entertainment venues by proposing recommendations to Full Council.
- 1.2 The issues that were subject of concern to the Licensing Committee, where a vote was taken are:
- 1) Exclusion of the White Swan Public House from the Sexual Entertainment Venue Policy
 - 2) Reconsideration of the fees at an extraordinary Licensing Committee
 - 3) Not to adopt the framework legislation to permit a licensing regime for sexual entertainment venues.
- 1.3 It is proposed subject to the Committee's further consideration of the issues that Full Council is recommended to adopt a legislative scheme for the control of lap dancing and striptease premises in Tower Hamlets, as set out in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. If the Council determines that the scheme should apply in Tower Hamlets, then no person may operate a sex establishment (including a sexual entertainment venue) in the borough without first obtaining a licence from the Council.
- 1.4 Full council may adopt the licensing scheme for sex establishments even though the Licensing Committee was not previously persuaded to do so. The Committee is asked to make a recommendation to Full Council to this effect. The matters which concerned the Licensing Committee at its meeting on 8 October 2013 are addressed in the report.
- 1.5 The Council currently has no specific licence regime in place for sexual entertainment venues and therefore there is currently no control on the numbers of venues permitted in the Borough.

2 RECOMMENDATIONS

Licensing Committee is requested to –

- 2.1 Recommend to Full Council that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended, shall apply in the London Borough of Tower Hamlets with regards to sexual entertainment venues.
- 2.2 Recommend to Full Council that the said Schedule 3 shall apply in the London Borough of Tower Hamlets from 31st March 2014, with regard to sexual entertainment venues.
- 2.3 Recommend to Full Council the proposed standard conditions in Appendix 2.
- 2.4 Recommend to Full Council the fee structure in Appendix 3.
- 2.5 Note the policy in Appendix 1, which will apply on the application of Schedule 3 in Tower Hamlets, and which supports continued operation of existing premises.

3 BACKGROUND

- 3.1 The legislation brought in by Government in 2009 allows Local Authorities the discretion to adopt the legislation to regulate sexual entertainment venues. Once the powers have been adopted the Council can, through its licencing processes:
 - (a) Control the number of premises
 - (b) Control the location of premises
 - (c) Give local people a greater say over sexual entertainment venues in their area.
- 3.2 This report requests consideration of the adoption of the provisions for regulating sexual establishments which cover licences for sex shops, sex cinemas and sexual entertainment venues (SEVs) as set out in the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') as amended by the Policing and Crime Act 2009.
- 3.3 If the framework legislation is adopted, Members sitting on the Licensing Committee will determine the relevant applications. A policy has been adopted by Cabinet (Appendix 1) that provides a decision making framework for the Licensing Committee to draw upon when making its decisions. It should be noted that the Licencing Committee remains free to and is obliged by law to consider each application on its merits. This flexibility provides Licencing Committee Members with sufficient leeway to consider direct representations made by different communities within the Borough and to make decisions that are sensitive to residents' concerns, equalities issues and take into account the views of the sexual entertainment venues and those in the community that make use of its services on an application by application basis.

- 3.4 The proposed standard conditions are detailed in Appendix 2 and the schedule of fees at Appendix 3. Adopting these is not an Executive function and the Licensing Committee is asked to recommend that Full Council agrees the conditions and the fees at the same time as considering whether or not to adopt the scheme.
- 3.5 A report relating to the adoption of the framework agreement as set out in the Local Government (Miscellaneous Provisions) Act 1982 was submitted to the Licensing Committee on 8 October 2013. A properly made decision not to adopt the framework legislation to enable licensing of sexual entertainment venues was made.
- 3.6 Representations were made by representatives of sexual entertainment venues in relation to the report to the Licensing Committee of 8 October 2013 and report prepared for full Council of 27 November 2013. Officers have attempted to address the matters raised when preparing this report.

Treatment of existing premises

- 3.7 At its meeting on 8 October 2013, the Licensing Committee discussed the circumstances of the White Swan, an iconic gay venue in Commercial Road. The White Swan currently holds a strip tease waiver on its licence and advertises professional strip tease nights on its website. The premises would be affected by adoption of the proposed licensing regime, because sexual entertainment is conducted at the premises.
- 3.8 Members wished to exempt the White Swan from being required to apply for a sexual entertainment venue licence should the legislation be adopted. Members were advised that, if adopted, the legislation would apply to all premises within the London Borough of Tower Hamlets, which would include the White Swan, but that the White Swan, as an existing operator would benefit from the exemption from the “nil limit” provided for existing premises in the Sexual Entertainment Venues Policy agreed by the Mayor in Cabinet on 11 September 2013, in anticipation of the licensing scheme being adopted.
- 3.9 The legal and policy position remains the same as it was when the Licensing Committee considered adoption of the scheme on 8 October 2013 and may be summarised as following in relation to existing premises –
- If adopted the scheme will apply to all sexual entertainment venues, including the White Swan and all premises will need a licence from the Council.
 - The Council’s policy provides an exemption from the nil limit for existing premises. This does not provide any guarantee that existing premises would be successful in obtaining licences under the scheme, as all applications must be considered on their merits.
 - The exemption from the nil limit would, however, remove the requirement for existing premises to demonstrate why the Council should depart from its nil policy, which is a distinct advantage.

- 3.10 It is considered that the nil policy with a limited exception for existing premises strikes the appropriate balance between human rights, the legal requirement to consider every application on its merits and the assorted views of those who do not support a nil policy.
- 3.11 At its meeting on 8 October 2013, the Licensing Committee resolved that the White Swan should be excluded from the Council's Sexual Entertainment Venues Policy. However the determination of that policy is an executive function and a resolution from the Licensing Committee will not serve to amend the adopted policy.

Fees

- 3.12 The Licensing Committee was also concerned by the amount of the proposed application fee to be charged by the Council. The Committee wanted further information about the calculation of the fee.
- 3.13 In calculating the fee for sexual entertainment venues in the Borough, the following costs have been estimated. As this is a new licensing regime a review of the fees will be undertaken at the end of the first licensing period to ensure that the fees are fair and equitable. The table below demonstrates predicted costs.

Activities/ Officer	Estimated time (hours)	Estimated cost (£)
Admin Officer	2	40
Licensing Officer	105	2625
Trading Standards and Licensing Manager	14	420
Compliance and Enforcement visits to licenced operators	105	2625
Head of Service Reviews	7	245
Service Head – Safer Communities	1	45
Democratic Services/ Committee Hearings		2000
Legal Services		1000

- 3.14 Following the decision of the Court of Appeal in *R (Hemming) v Westminster City Council* on 24 May 2013, it has been made clear that the Council may only charge for authorisation procedures when setting its fees.
- 3.15 It is estimated that Licensing Officers will spend 15 working days on administering each application. Officers will have to –

- Examine the application forms
- Examination of plans
- Meeting with applicant
- Visiting premises to determine accuracy of plans
- Consideration of conditions and survey of premises
- Liaison with responsible authorities
- Liaise with the applicant and objectors.
- Administer the consultation process
- Prepare a committee report
- Attend any licensing committee hearing.
- Administration of determination
- Costs associated with appeals

3.16 The cost of compliance monitoring and enforcement against an applicant who is given a licence can fall within the costs of 'authorisation procedures' and therefore can be included in the licence fee.

3.17 These are visits that take place during the course of the year to ensure that conditions are being maintained and that the premises are being managed in line with the licence. Due to the late night operation of these premises, compliance audits are undertaken in the evening and early morning, with more than one Officer in attendance. These audits will require reports to be written and discussion to be held with the licence holder to ensure that compliance with the licensing conditions continue.

Costs in relation to compliance visits results from;

- Overtime for overt visits – undertaken in pairs
- Report writing and feedback to operator
- Overtime for covert visits
- Test purchase monies
- Review costs
- Committee Hearing costs
- Investigation costs – e.g. examining CCTV footage

3.18 Due to the public interest in the Sexual Entertainment Venue consultation, there will be an expectation that compliance visits are undertaken throughout the regime. In subsequent years the fee structure will be reviewed to ensure that fees are recovered on a cost basis.

3.19 The Council must determine its fees on a cost-recovery basis, so comparison with fees in other boroughs is not a relevant consideration. Officers have, however, conducted a benchmarking exercise in respect of 13 other London boroughs and there is nothing to suggest that the Council's costs are excessive. The fees cannot be compared with those under the Licensing Act 2003 as that is a different regime and the fees are set by statute.

- 3.20 The fees estimate the amount of time that Council officers will spend on their part of the Licensing process.
- 3.21 The costs of convening the committee and legal oversight of the SEV process have been estimated.
- 3.22 At the end of the first year of the SEV process, the actual cost of the new regime will be calculated and the fees will be adjusted accordingly. Should the amount collected be in excess of the actual cost of the SEV regime then the fees will be reduced for the coming year and where applicable refunds made.
- 3.23 Once again during the second year, the amount it costs to administer and ensure compliance with the SEV regime will be calculated and fees adjusted accordingly.

Consultation

- 3.24 Consultation on the adoption of the sexual entertainment venues legal framework ran for six weeks from March 18th 2013 to April 29th 2013. The consultation was promoted through East End Life, press releases to all local and Bengali media and on the council's website. Emails notifying about the consultation were sent out, this included emails sent to the responsible authorities, the Licensing Committee, Faith groups, Community Safety Partnership, Women's Organisations, Networks and Forums, Advocacy Services and RSL and Housing Associations. All sexual entertainment venues and their registered owners received letters notifying them of the consultation.
- 2.25 The consultation was hosted online on the Council's website and paper copies were provided if requested. The consultation posed the question 'Do you think the council should adopt new powers to regulate sexual entertainment venues via an enhanced licensing regime?' A concern has been raised that the Council's system permitted only one response per computer, which may have restricted the representations that could be made. This is a possibility which may have affected representations for and against the scheme.
- 3.26 A total of 4,973 responses (526 online and 4,447 paper returns) were received, with 1,400 forms being returned from a single sexual entertainment premises within the Borough. The responses were as follows:
- 108 (2.2%) 'Yes' responses, in favour of adopting
4,865 (97.8) 'No' responses, not in favour of adopting
- 3.27 It is accepted by the industry that they ran a campaign to encourage persons to register their opposition to adoption of the scheme. There is nothing illegitimate about such a campaign. Industry representatives have asserted that there is no basis for concluding that the industry campaign skewed the outcome of consultation. Whether or not there were campaigns 'for' and 'against' which took place during consultation about adoption

of the scheme, it must be recognised that there was a strong expression of public opinion against adoption.

- 3.28 However it should also be considered, the results are in contrast to the community response received to the Council's consultation on the policy approach that might be taken to control sex entertainment venues where there was up to 75% in favour of aspects of sex establishment policy (specifically delineation of localities) control and a 52% to 48% split in favour of a blanket nil policy. The position on the nil limit was effectively split, when sampling error is taken into account.
- 3.29 In contrasting the two sets of consultation results, Members should bear in mind that the survey in respect of the Policy came first and as people were consulting on a policy they may have assumed that the Act was already in force and therefore did not respond to a consultation on adopting. It is fair to say that there was not an overwhelming support for a nil limit, which is why the Policy did not extend the "Nil" limit to existing operators.
- 3.30 The Committee should, take the consultation response into consideration when reaching a decision. Whilst the Council is required to undertake consultation on the adoption of the legislation, a strong 'No' response does not prevent adoption if there remain good reasons for regulation of sexual entertainment venues under the scheme established by Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. In this regard, the following should be taken into account –
- The overall consultation response represents only a small percentage of those who live and work in the borough. It is not possible to know whether those who did not make representations would have supported or been against adoption of the scheme.
 - Adoption of the scheme will enable the Council to regulate the number, location and conduct of premises in the borough. Whilst this will apply to all premises, it will be particularly important when dealing with applications from new premises.
 - A licensing scheme will give local people a greater say over venues in their areas.
 - The adoption of the scheme will facilitate policy interventions that enhance the ability of the Council to limit impact of SEV's on the community and on particular groups at risk of exploitation.
 - Each case will be considered by the Licensing Committee on its own merits, having regard to the Council's policy. The policy provides support for the continuation of existing premises which meet their licence considerations.
 - The licensing regime will allow the Council to take broader policy implications into consideration when judging applications including limiting the negative impacts on local communities brought about by these venues.
- 3.31 Concerns were raised by Members in discussion, that operators may not be granted their annual licences. This concern is recognised, but in determining applications, members of the Licensing Committee should take account of the Council's policy and also existing operations and whether they have been well controlled.

3.32 These considerations are good reasons for the regulation of sexual entertainment venues under the scheme. On balance, and taking into consideration the outcome of the consultation exercise, it is considered preferable to adopt the scheme in Tower Hamlets and take into account the views of those in favour of sexual entertainment venues when considering each application and in any policy deliberations.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

4.1 The adoption of the provision will introduce a new fee structure for sexual entertainment venues. They will need to hold two licences one for alcohol and another for the venue. The new fees for the SEV's are set out in Appendix 3. The number of SEV's that would be affected by the adoption of the new licensing regime is currently 11. If all apply and were granted SEV licenses this would achieve £99,000 in fees. This is the maximum that could be achieved and would be dependent on the relative number of refusals for which there is a partial return of the fee paid. The fee will need to be utilised to fund the administration of the new regime process and any potential legal challenge upon refusal.

4.2 With the threat of any legal challenge arising from adoption of the policy, as no specific provision exist within the Council budgets, any legal costs will have to be met from within the Communities Localities and Culture budget and resources Identified. The extent to which sufficient resources can be identified will need to be considered in the light of the impact on the Council's Medium Term Financial Plan savings.

5 LEGAL COMMENTS

5.1 On 6 April 2010, amendments to the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") came into effect which permitted local authorities to regulate sexual entertainment venues ("the SEV amendments") in addition to other sex establishments.

5.2 For the purposes of the 1982 Act a sexual entertainment venue ("SEV") means any premises at which entertainment of the following kind is provided before a live audience for the financial gain of the organiser or the entertainer-

- A live performance or a 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).

5.3 The following are not SEVs for the purposes of the 1982 Act –

- Sex cinemas and sex shops (which come within the more general definition of sex establishments).
- Premises at which the relevant entertainment has been provided no more than 11 times in a 12 month period, provided that on each occasion the entertainment has not been provided for more than 24 hours and the occasions are at least a month apart.

5.4 Under section 2 of the 1982 Act the Council may decide that Schedule 3 to the Act, which contains a regime for controlling sex establishments, is to apply in Tower Hamlets. If the Schedule 3 regime is applied in Tower Hamlets, then no person may operate a sex establishment (including an SEV) in the borough without first obtaining a licence from the Council. The requirement for a licence is backed up by provision for offences, each of which carry a maximum penalty of £20,000.

5.5 If premises obtain a sex establishment licence under the Schedule 3 licensing regime, those premises will not also require a licence under the Licensing Act 2003 in respect of entertainment permitted by the sex establishment licence. The premises would still, however, require permission under the Licensing Act 2003 in respect of other licensable activities conducted at the premises (e.g. the sale of alcohol or the provision of regulated entertainment that is not permitted by the sex establishment licence).

5.6 Prior to the SEV amendments in 2010, the Council had determined that the scheme for licensing sex establishments in Schedule 3 of the 1982 Act should apply in Tower Hamlets. However, at the time of introducing the SEV amendments in 2010, the Policing and Crime Act 2009 put in place transitional arrangements (“the Transitional Arrangements”), which specified that a new resolution is required if a local authority wants the Schedule 3 licensing scheme to extend to SEVs in addition to other types of sex establishments such as sex cinemas and sex shops.

5.7 The procedure for deciding that Schedule 3 of the 1982 Act should apply in Tower Hamlets is as follows-

- The Council must consult local people about whether or not to apply the SEV licensing regime in Tower Hamlets. The Transitional Arrangements set up an initial 12-month period in which local authorities might resolve that the SEV amendments would apply in their areas. If an authority did not resolve to adopt the SEV amendments within the timeframe (i.e. by 5 April 2011), then the authority was then required to consult local people about whether to adopt the SEV amendments. The Council was caught by this requirement to consult and the report sets out the results of that consultation.
- The Council must pass a resolution specifying that the Schedule shall apply in Tower Hamlets. The resolution must specify the day on which the Schedule shall come into force (“the Specified Day”), which must be more than one month after the day on which the resolution is passed.
- The Council must then publish a notice that it is adopting the Schedule 3 regime. This must be published for two consecutive weeks in a local newspaper which is

circulated in Tower Hamlets. The first publication of the notice must be at least 28 days before the Specified Day. The notice must state the general effect of Schedule 3.

- 5.8 The Council should have a rational basis for any resolution to adopt the sex establishment (including SEV) licensing regime in Tower Hamlets. The results of the consultation exercise must be taken into account. In this respect, the consultation conducted in relation to whether or not to adopt the sex establishment licensing regime (the 2013 consultation), is the more relevant of the two consultation exercises referred to in the report. If the Council intends to take a different approach than that indicated by the preponderance of views expressed in the 2013 consultation, then it will need to be satisfied there are good reasons for taking that approach. There is material in the report both in favour of and against the adoption of the SEV licensing regime. Before adopting the regime, the Licensing Committee will have to be satisfied that the reasons in favour of adoption are sufficiently cogent.
- 5.9 Standard conditions have been proposed that will be applied to all licensed SEVs (see Appendix 2). Paragraph 13(1) of Schedule 3 to the 1982 Act gives the Council power to make regulations prescribing standard conditions (i.e. the terms, conditions and restrictions on or subject to which licences under Schedule 3 to the 1982 Act are in general to be granted, renewed or transferred by the Council). Such conditions must be proportionate and must be precise so that everyone (Premises Licence holder, those charged with enforcing the conditions, and local residents) would know where they stand. These proposed conditions meet those criteria.
- 5.10 It is proposed to introduce application fees as set out in Appendix 3. Paragraph 1 of Schedule 3 to the 1982 Act allows the Council to set a fee. This paragraph has to be read in conjunction with the Provision of Services Regulations 2009. Pursuant to regulation 18 of those Regulations –
- The Council's procedures and formalities must not be dissuasive, nor should they unduly complicate or delay the provision of the service. Fees should not be used as an economic deterrent and therefore be set at an unreasonably high level to dissuade applications.
 - Any charges must be proportionate and reasonable to the effective (i.e. actual) cost of the authorisation scheme and must not exceed the costs to the Council. Charges may properly reflect the anticipated costs for the Council in administering the application and holding a hearing to consider the application (including legal costs associated with that hearing). The cost of compliance monitoring and enforcement against an applicant who is given a licence can fall within the costs of authorisation procedures, but the costs of enforcement against unlicensed operators may not be so included. The costs incurred in investigating the suitability of an applicant for a licence may be included.
- 5.11 Before taking the proposed decisions in relation to the licensing of SEVs, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act

2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not. An equality analysis has been conducted and is set out in Appendix 4.

5.12 The Council's Constitution provides that the power to licence sex shops and sex cinemas, as provided in section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 is delegated to the Licensing Committee. On one view, this delegation includes a power to decide that the licensing scheme should apply in Tower Hamlets, but another view is that this at best permits the Licensing Committee to express an advisory view about adoption of the scheme. Irrespective of the position concerning the Licensing Committee's role, two matters are clear:

- Full Council may determine whether or not the scheme should apply in Tower Hamlets.
- Full Council is not prevented from determining whether or not the scheme should apply in Tower Hamlets by reason of any prior consideration by the Licensing Committee.

5.13 Whilst the Licensing Committee has previously considered adoption of the licensing scheme, it is now being asked to give the matter further consideration and make recommendations to Full Council. Provided that members of the Committee approach the matter with open minds, there is nothing to prevent the Committee from the proposed further consideration.

5.14 Determining the Council's policy in relation to licensing under the scheme (should it be adopted) is an executive function which is the responsibility of the Mayor. On 11 September 2013, the Mayor in Cabinet agreed that the policy in Appendix 1 should apply in the event that the scheme is adopted in Tower Hamlets.

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1 Legislation gives local authorities the opportunity to control sexual entertainment venues. The legislation was drafted to allow communities to have a say about whether sexual entertainment venues should be allowed to operate in their community and it gives the local authority the power to determine limits on numbers and localities. An equalities impact assessment is provided at Appendix four. In addition as the decision to adopt the framework legislation will bring the policy into effect. Members may wish to consider the equalities impact assessment at Appendix 5 in relation to the policy.

6.2 The adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 will enable this to happen.

6.3 It is important to note that, after adopting the above legislation, the Licencing Sub Committee remains free to and is obliged by law to consider each application on its

merits. Accepting the material consideration of Council Sexual Entertainment Venue policy this flexibility provides Committee Members with sufficient leeway to consider representations made by different communities within the Borough and to make decisions that are sensitive to equalities issues and where relevant to the needs of the sexual entertainment venues and those within the community who make use of its services.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

7.1 There are no adverse impacts identified.

8. RISK MANAGEMENT IMPLICATIONS

8.1 The Mayor in Cabinet has adopted the policy on sexual entertainment venues for the Borough. Full Council is being requested to re-consider the adoption of the legislation to enable the policy to take effect. There is potential for legal challenge to the Council's adoption of the licensing regime for sex establishments, which will have associated costs.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

9.1 Adoption of this legislative framework will complement the Crime and Drug Reduction Partnership Plan.

10. EFFICIENCY STATEMENT

10.1 There are no efficiency considerations arising from the report.

11. APPENDICES

- Appendix 1 – The Sexual Entertainment Venue Policy
- Appendix 2 – Standard Conditions for Sexual Entertainment Venues
- Appendix 3 – Fee Structure
- Appendix 4- Equalities Impact Assessment – framework
- Appendix 5 – Equalities Impact Assessment – policies

Background Papers: Section 100D of the Local Government Act 1972

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Appendix One

Tower Hamlets Council

Sex Establishment Licensing Policy

Introduction

This policy sets out Tower Hamlets Council's proposed approach to regulating sex establishments and the procedure that it will adopt in relation to applications for sex establishment licences.

The policy of the Council is to refuse applications for sexual entertainment venues. This policy is intended to be strictly applied and will only be overridden in genuinely exceptional circumstances. Such circumstances will not be taken to include the quality of the management, its compliance with licence conditions, the size of the premises or its operating hours.

The policy is intended as a guide to applicants, licence holders, people who want to object to applications and members of the Licensing Committee who are responsible for determining contested applications. It also aims to guide and reassure the public and other public authorities, ensuring transparency and consistency in decision making.

When the decision making powers of the Council are engaged each application will be dealt with on its own merits but this policy gives prospective applicants an early indication of whether their application is likely to be granted or not. It also provides prospective applicants details of what is expected of them should an application be made.

The legal controls for sex establishment premises are contained in the Local Governmental (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

There are 3 types of sex establishments which fall into the licensing regime:-

Sex shops

Sex cinemas

Sexual entertainment venues

The role of the Council in its position as Licensing Authority is to administer the licensing regime in accordance with the law and not in accordance with moral standing. The Council recognises that Parliament has made it lawful to operate a sex establishment and such businesses are a legitimate part of the retail and leisure industries.

Policy Rationale

The policy has been developed that sets out how the legislation will be administered and applied. The policy identifies how the Council would exercise the licensing regime in relation to sexual entertainment venues.

The policy has been developed to reflect and complement existing Council plans and strategic approach, namely:-

- Tower Hamlets Community Plan.
- Tower Hamlets Crime & Drug Reduction Partnership Plan.
- Tower Hamlets Enforcement Policy.
- Tower Hamlets Core Strategy.
- TowerHamletsTown Centre Spatial Strategy.
- Tower Hamlets Statement of Licensing Policy (Licensing Act 2003).
- Tower Hamlets Statement of Licensing Policy (Gambling Act 2005).

The policy has also been prepared with regard to:

- Consultation responses
- Human Rights Act 1998
- Equalities Act 2010

The policy seeks to contribute to the “One Tower Hamlets” principle by fostering community cohesion, reducing inequalities and empowering communities. The public consultation that was undertaken concerning the adoption of a nil policy did not have overwhelming support. Therefore careful consideration has been given to the policy response, given the balance that the consultation returns did not give overwhelming support.

Policy Considerations

Existing Licensed Premises

The Council has had the ability to licence sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982 for many years.

There are no licensed sex shops in Tower Hamlets.

The businesses that hold premises licences under the Licensing Act 2003 with permissions that will be affected by the adoption of the sexual entertainment venue licensing regime are as follows:-

NAME	ADDRESS
THE BEEHIVE	104-106 Empson Street, London, E3 3LT
EONE CLUB	168 Mile End Road, London, E1 4LJ
NAGS HEAD PUBLIC HOUSE	17-19 Whitechapel Road, London, E1 1DU
THE PLEASURE LOUNGE	234 Cambridge Heath Road, London, E2 9NN
WHITE SWAN	556 Commercial Road, London, E14 7JD
ASTON'S CHAMPAGNE AND WINE BAR BASEMENT & 1ST FLOOR	187 Marsh Wall, London, E14 9SH
CLUB PAISA	28 Hancock Road, London, E3 3DA
OOPS	30 Alie Street, London, E1 8DA
WHITE'S GENTLEMANS CLUB	32-38 Leman Street, London, E1 8EW
SECRETS	43-45 East Smithfield, London, E1W 1AP
IMAGES	483 Hackney Road, London, E2 9ED

Tower Hamlets Council has adopted schedule 3 Local Government (Miscellaneous Provisions) Act 1982 with effect from **XXXXXX 2013** so that it can:

- set a limit on the number of sexual entertainment venues
- determine premises that are appropriate for the borough and
- licence sexual entertainment venues

Sexual entertainment venues are those that regularly provide lap dancing and other forms of live performance or live display of nudity.

Establishments that hold events involving full or partial nudity less than once a month may be exempt from the requirements to obtain a sex establishment licence and applicants are advised to contact the Licensing Team for advice.

Limits on the number of licensed premises

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.

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

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.

Location of premises

The Council's policy is that there is no locality within Tower Hamlets in which it would be appropriate to license a sex establishment. Accordingly, the appropriate number of sex establishments for each and every locality within Tower Hamlets is zero.

As previously stated in the policy the Council will treat each application on its own merits however applicants should be aware that the Council will take into consideration the location of the proposed premises and its proximity to:

- residential accommodation,
- schools,
- premises used by children and vulnerable persons
- youth, community & leisure centres,
- religious centres and public places of worship
- access routes to and from premises listed above
- existing licensed premises in the vicinity

Impact

In considering applications for the grant of new or variation applications the Council will assess the likelihood of a grant causing impacts, particularly on the local community.

The Council will take the following matters into account:

- the type of activity
- the duration of the proposed licence
- the proposed hours of operation
- the layout and condition of the premises
- the use of other premises in the vicinity
- the character and locality of the area
- the applicant's previous knowledge and experience
- the applicant's ability to minimise the impact of their business on local residents and businesses
- any evidence of the operation of existing /previous licences held by the applicant

- any reports about the applicant and management of the premises received from residents, Council officers or the police
- the ability of the proposed management structure to deliver compliance with licensing requirements, policies on staff training and the welfare of performers
- crime and disorder issues
- cumulative impact of licensed premises, including hours of operation
- the nature and concerns of local residents
- any evidence of complaints about noise or disturbance caused by premises
- planning permission and planning policy considerations

In considering applications for renewal the Council will take into account

- the applicant's ability to minimise the impact of their business on local residents and businesses
- any reports about the licensee and management of the premises received from residents, Council officers or the police
- whether appropriate measures have been agreed and put into place to mitigate any adverse impacts
- any evidence of complaints about noise or disturbance caused by premises

In considering applications for transfer the Council will take into account:

- the applicants previous knowledge and experience
- the applicants ability to minimise the impact of their business on local residents and businesses
- any evidence of the operation of existing /previous licences held by the applicant
- any reports about the applicant and management of the premises received from residents, Council officers or the police

- the ability of the proposed management structure to deliver compliance with licensing requirements, policies on staff training and the welfare of performers

Applicants

Where appropriate the Council expects applicants to:

- demonstrate that they are qualified by experience
- have an understanding of general conditions
- propose a management structure which will deliver compliance with operating conditions for example through
- Management competence
- Presence
- Credible management structure
- enforcement of rules internally – training & monitoring
- a viable business plan covering door staff, CCTV
- policies for welfare of performers
- demonstrate that they can be relied upon to act in best interests of performers through remuneration, facilities, protection, physical and psychological welfare
- have a transparent charging scheme with freedom from solicitation
- a track record of management compliant premises or employ individuals with such a track record

New applicants may be invited for interview by the Licensing Officer and /or Police Officer prior to the application being referred to the Licensing Committee for determination.

Applications from anyone who intends to manage the premises on behalf of third party will be refused.

Premises appearance and layout

The Council expects premises to:-

- have an external appearance which is in keeping with the locality
- prevent the display outside the premises of photographs or other images which may be construed as offensive to public decency

- adequate lighting to allow monitoring of all public areas
- surveillance by CCTV
- surveillance by CCTV of all private booths

Conditions

The council will prescribe, and from time to time revise, standard conditions which will apply generally to licences that the council will grant or renew.

Through standard conditions the council seeks to ensure that sexual entertainment venues are well managed and supervised, restrict the sexual entertainment activities and the manner in which they are permitted to be provided, protect performers, and control the impact of the venue and its customers in relation to its locality.

Specifically, standard conditions could include measures which are found in the appendix of this policy.

The Application Process

Making a new, renewal, transfer or variation application

The Act requires the Council to refuse all application if the applicant:

- Is under the age of 18 or
- Has had their licence revoked in the last 12 months or
- Is not resident in the UK, or has not been a UK resident for the last 6months
or
- Has been refused an application in the last 12 months or
- Is a corporate body which in not incorporated in the UK

Applications forms and details of current fee levels are available:

- on the Council's website (www.towerhamlets.gov.uk)
- from the Licensing Team on 020 7364 5008
- by email to licensing@towerhamlets.gov.uk

The Council prefers to receive electronic applications and *offers a choice off payment options the details of which are contained in the application pack.*

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.

In order for the application to be valid the applicant must:

- Submit the completed application form
- Pay the application fee
- Submit a floor plan, drawn to scale showing the layout of the premises (new applications only)
- Submit a location plan (1:1250) showing the location of the premises (NB. plans will not be required for transfers nor renewal applications)
- 2 passport size photos of the applicant where the applicant is an individual rather than a limited company
- 2 passport size photos of the manager if applicant is a limited company (NB: photos will only be required if there has been a change of applicant or manager since the last application)
- Display an A4 notice at the proposed premises for 21 days following the date that the completed application is submitted setting out the application details. The notice must be in a prominent position so that it can be easily read by passers-by. A notice template will be provided with the application form.
- publish a notice on at least one occasion in a local newspaper, during the period of ten working days starting on the day the application was given Council. The advert can be any size or colour but must be readable.

Applicants who wish to advertise the application in another local newspaper are advised to contact the Licensing Team beforehand, to confirm that it is acceptable.

On receipt of a valid application the Council will consult:

- The Police
- The Fire Brigade
- Building Control
- Health and Safety
- Ward Councillors

For new and variation applications the Council will also consult:

- Development Control Team
- Local residents living within 50m of the premises

Authorised Officers from the Council, Fire Brigade and Police may choose to inspect the premises and require works to be carried out to bring the premises up to the required standard before the premises can be used for licensable activities.

The Council will not determine an application for a licence unless the applicant allows an authorised officer reasonable opportunity to enter the premises to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

Representations

Anyone wishing to object to the application must submit a representation, in writing, within 28 days of the date that the valid application was received by the Council.

Representations can either be submitted via

- Our website: www.towerhamlets.gov.uk
- Email to: licensing@towerhamlets.gov.uk
- Post to: Consumer and Business Regulations, Licensing Team, 6th Floor, Mulberry Place, 5 Clove Crescent, E14 2BG.

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. Copies of representations will be made available to the applicant 14 days before the committee hearing.

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).

The Council prefers to receive electronic representations.

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

Determining an application

Applications with no representations will be approved under delegated authority to officers.

Applications with representations recommending that conditions be attached to the licence and which are acceptable to both the applicant and person making the representation can be approved under delegated authority to officers.

All other contested applications will be referred to the Licensing Committee for determination. The applicant, anyone making a representation and the ward Councillors will be notified the date, time and venue of the hearing and invited to attend to address the committee in person.

Applications can take up to 14 weeks to be determined. If an application is likely to take longer than 14 weeks to determine the Council will notify the applicant in writing before this deadline. Applications for sex establishment licenses are exempt from the tacit consent provisions of the EU Services Directive on the grounds of public interest and the legitimate interests of third parties.

The applicant will be notified in writing about the outcome of their application within 5 working days of the decision being made.

Sex Establishment licences are usually issued for 12 months, but can be issued for a shorter period if deemed appropriate.

In order to continue operating as a sex establishment the licence holder must make a renewal application prior to the expiry of the existing licence.

Appeals

Any applicant who is aggrieved by a decision to refuse an application or by the imposition of any conditions can appeal to the Magistrates Court within 21 days of receiving the decision in writing.

Grounds for refusing an application

1. The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason
2. That if the license were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a license if he made the application himself
3. That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality
4. That the grant or renewal of the license would be inappropriate, having regard:-
 - a. to the character of the relevant locality
 - b. to the use to which any premises in the vicinity are put; or
 - c. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Transitional Arrangements

Broadly speaking, those existing sexual entertainment venues (lap dancing clubs etc) with a premises licence under the Licensing Act 2003, under which it is lawful to provide such entertainment, will continue to be able to operate for one year after the Council adopts the 2009 Act provisions or, if later, the determination of any application submitted during that year.

The 'transitional period' will last for 12-months beginning with the date that the Council resolves that Schedule 3 as amended by the 2009 Act will come into force in their area ('the 1st appointed day'). Six months following the 1st appointed day will be known as the '2nd appointed day' and the day on which the transitional period ends will be known as the '3rd appointed day'

Existing Operators

To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a 2003 Act licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later

For the purposes of the Transition a "2003 Act Licence" means a premises licence or club premises certificate under the Licensing Act 2003 under which it is lawful to provide relevant entertainment.

"Preparatory work" refers to work carried out by an operator, such as a refurbishment or refit, in order that they can use the premises as a sexual entertainment venue in the future. The operator will have been granted a 2003 Act licence before the 1st appointed day but will not have used the premises as a sexual entertainment venue by that date. It is likely that such operators will be known to the Council. However, where a dispute arises between the Council and

a licence-holder over whether the licence-holder qualifies as an existing operator by virtue of this provision the Council will need to seek evidence from the licence-holder to demonstrate that they clearly intended to operate a sexual entertainment venue in the future and work had been done to achieve this end.

For the purposes of the Transition a “2003 Act Licence” means a premises licence or club premises certificate under the Licensing Act 2003 under which it is lawful to provide relevant entertainment.

Appointed Days

1st Appointed Day

The day on which the Sexual Entertainment Venue regime comes into force in the Borough and the beginning of the transitional period (xxxxxxxx2013)

2nd Appointed Day

The day 6 months after the 1st appointed day (xxxxxxxxxx2013)

3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period (xxxxxx2014)

New Applications

New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence

Determining Applications Received On or Before the 2nd Appointed Day

Applicants will be able to submit their application for a sexual entertainment venue from the 1st appointed day onwards.

As the Council is able to refuse applications having regard to the number of sex establishments they consider appropriate for a particular locality, all applications made on or after the 1st appointed day but on or before the 2nd appointed day shall be considered together. This will ensure that applicants are given sufficient time to submit their application and all applications received on or before the 2nd appointed day are considered on their individual merit and not on a first come first serve basis.

No applications shall be determined before the 2nd appointed day. After the 2nd appointed day the appropriate authority shall decide what if any licences should be granted. If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence, it will not take effect until the 3rd appointed day, up to which point they will be allowed to continue to operate under their existing premises licence or club premises certificate.

Determining Applications Received After the 2nd Appointed Day

Applications made after the 2nd appointed day shall be considered when they are made but only once all applications made on or before that date have been determined. However, reference to determination here does not include references to the determination of any appeal against the refusal of a licence.

As with applications received on or before the 2nd appointed day, licences granted to new applicants shall take effect immediately and licences granted to existing operators shall take effect from the 3rd appointed day or, if later, the date the application is determined.

Outstanding Applications

The Council will attempt where possible to determine outstanding applications made under the 2003 Act, which include an application for the provision of

relevant entertainment, before the date that Schedule 3 as amended by the 2009 Act comes into force in their area.

Where it has not been possible to determine application before the 1st appointed day, applicants will need to submit an application for a sex establishment licence as set out in Schedule 3 if they wish to provide relevant entertainment. From the 1st appointed day onwards outstanding applicants shall be dealt with as though they are new applicants

Additional information and advice

Please contact:

Consumer and Business Regulations
Licensing Team
6th Floor,
Mulberry Place,
5 Clove Crescent,
E14 2BG.
licensing@towerhamlets.gov.uk
020 7364 5008

Appendix Two

STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

General

1. The Licensee must remain in personal control of the premises at all times that it is trading or nominate in writing an individual over the age of 18 with the authority to direct activities within the Premises.
2. The licensee shall notify the Council, in writing, of any change in directors, trustees, partners or other persons concerned in the management of the licensed activities within fourteen days of such change.
3. The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council to prove compliance with this Licence.
4. The licensee must give written notice to the Council if s/he wishes to surrender the licence.
5. The Council reserves the right to amend or alter these conditions (provided that such change will not prevent the operators from viably carrying on the business of the premises) following consultation with licensees
6. The meaning of "sexual entertainment" is given in Section 27 of the Policing and Crime Act 2009.

Management

7. A suitable and sufficient number of door supervisors and trained staff will be employed (based on a risk assessment) when sexual entertainment is offered. Their duties will include monitoring customers and performers to ensure that the Code of Conduct for Dancers and the House Rules are being obeyed and enforcing if necessary.
8. The Licensee shall prepare and implement a Code of Conduct for Performers. The Code shall be approved by the council and will not be altered without their consent.
9. The Licensee shall prepare House Rules governing the conduct of customers. The Rules shall be approved by the council and shall not be altered without their consent.

Premises

10. The approved layout of the premises shall not be altered without prior consent of the council.

11. The Licensee shall ensure that the interior of the premises where sexual entertainment is offered shall not be capable of being seen from the outside of the premises, and that the exterior is maintained to a satisfactory level of decorum.

12. The sexual entertainment shall take place only in the areas designated by the Council and the approved access to the dressing room(s) shall be maintained whilst sexual entertainment is taking place and immediately thereafter.

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.

Advertising

14. The Licensee shall not permit the display outside of the premises of photographs or other images, excluding trademarks or logos, which are unacceptable to the Council, and which indicate or suggest that sexual entertainment takes place on the premises.

15. Where the Council has given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend public decency or be likely to encourage or incite crime and disorder that advertisement shall be removed or not be displayed.

Admission to the Premises

16. No person under the age of 18 years shall be permitted on the premises when sexual entertainment is being offered, and a clear notice to this effect will be displayed at the entrance.

17. Customers who appear to be under the age of 21 must be asked to provide a Pass-Scheme approved photographic card, their passport or photographic driving licence to prove their age. Prominent notices must be clearly displayed to this effect at the entrance(s) to the premises.

18. The content of the House Rules will be made known to customers prior to their admission to the premises when sexual entertainment is provided.

19. Signs must be displayed at appropriate locations advising that any customer attempting to make physical contact with a performer will be asked to leave;

Performers

20. Entertainment will be given only by the performers engaged by or through the Licensee and there will be no audience participation.

21. The licensee shall keep a record of each performer, including their proper name and any aliases, and their residential address. With each record the licensee shall keep a copy of a photographic form of identity and proof of address of the performer.

22. On days when sexual entertainment is provided, the licensee, or their representative, shall keep a record of those performers working at the premises on that day in a daily record. The daily record shall be immediately available for inspection by authorised officers.

23. The licensee shall ensure that each performer signs the code of conduct in their proper name, acknowledging that they have read and understood and are prepared to abide by the code of conduct, and signed copies be kept on the premises for inspection by authorised officers.

24. During a performance there shall be no full bodied physical contact between the customer and the dancer other than the transfer of money or token at the beginning, during and conclusion of the dance.

25. During a performance there shall be no full bodied physical contact between dancers and they are not to touch each other's breasts and or genitalia.

26. Performers must remain fully dressed while on the premises, except while performing in areas approved by the Council for sexual entertainment and in the approved changing rooms.

27. Performers must redress at the conclusion of the performance.

28. Performers must never be in the company of a customer except in an area open to the public (excluding the toilets) within the premises.

29. The Licensee is to implement a policy for the safety of the performers when they leave the premises.

Customers

30. The House Rules regarding customer behaviour will be implemented at all times that the premises are operating with sexual entertainment.

31. No member of the public shall be admitted or allowed to remain in the dance area if they appear to be intoxicated or under the influence of illegal substances.

32. Customers may not be permitted to photograph film or electronically record any performance.

33. Customers shall not be permitted to enter non-public areas of the premises such as changing rooms.

Appendix Three

Sexual Entertainment Fees

Application type	Fee
New Application	£9000
Renewal Application	£9000
Refund if refused	£2625
Transfer of licence	£230
Variation	£3750

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Full Equality Analysis

Section 1 – General Information

Name of policy or function:

Adoption of the Sexual Entertainment Licensing Regime, Policing and Crime Act 2009

Business Unit:

CLC, Safer Communities, Consumer and Business Regulations

Is this a policy or function?

Licensing functions

Is this a new or existing policy or function?

New

Is the policy or function strategic, developmental or operational/functional?

Operational/Functional

Date when the original policy/function was initiated: N/A

Date on which the policy/function is to be reviewed: Licensing Committee 8/10/13

Names and roles of the people carrying out the Equality Analysis:

David Tolley: Head of Consumer and Business Regulations Service (CLC)

Section 2 – Aims and Objectives

What are the aims, objectives or purpose of the policy/function?

Legislation gives local authorities the opportunity to control SEV's. The legislation was drafted to allow communities to have a say about whether sex establishments should be allowed to operate in their community and it gives the local authority the power, through its licensing arrangements, to determine limits on numbers and localities.

The Council's Sex Entertainment Policy was developed with "One Tower Hamlets" as a key part of its rationale and was adopted by Cabinet on the 11th September 2013. To enable the Policy to be brought into effect the provisions under the schedule 3 of the Local Government (miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 must be applied to the London Borough of Tower Hamlets area.

What are the main activities of the policy/function?

The adoption of the legislation enables the agreed policy to be applied: The policy establishes a cap on the total number of SEV premises that will be licensed, and it provides a basis for agreeing or refusing licenses with reference to:

- The suitability of any given location
- The management of the establishment
- The conduct within, and in the vicinity of (i.e., associated with) the establishment.

The policy includes both statutory and discretionary conditions that protect performers and help control the management of the premises.

Who is expected to benefit from the policy/function?

The adoption of the legislation will enable the agreed policy to be implemented (Note; a separate EQIA has been undertaken in relation to the setting of the policy framework).

The adoption of the legislation will affect the whole borough and potentially everyone that lives in, works in or visits the area and whom might be affected by the existence and operation of Sexual Entertainment Venues in the locality. Consultation has identified additional considerations in relation to cohesion amongst the LGBT community which have taken into account in developing the policy that this legislation enables.

Section 3 – Consideration of data and research Identifying Differential / Adverse Impacts

Question -

A policy/function can aim to treat all people fairly but unless you analyse data and stats and speak to the people it is going to affect how do you really know?

Evidence Base -

For each of the equality strands in the table below please now **evidence** how you came to the conclusions around differential and negative impacts in relation to the policy or function.

Please use the evidence prompts below to form an evidence base to justify your claims around differential impacts. If there is limited evidence we **strongly recommend** undertaking consultation

Please note – during consultation, if you identify a differential impact it may be advantageous to discuss whether this impact is also negative and record your findings accordingly. If no differential impact is identified there will be NO negative impact.

Evidence Prompt

1 List all qualitative and quantitative evidence

List all examples of quantitative and qualitative data available

(include information where appropriate from other directorates, Census 2001 etc)

2 Equalities profile of users or beneficiaries

Use the Council's approved diversity monitoring categories and provide data by target group of users or beneficiaries to determine whether the service user profile reflects the local population or relevant target group or if there is over or under representation of these groups

3 Equalities profile of staff

Indicate profile by target groups and assess relevance to policy aims and objectives e.g. Workforce to Reflect the Community. Identify staff responsible for delivering the service including where they are not directly employed by the council.

4 Barriers

What are the potential or known barriers to participation for the different equality target groups? Eg, communication, access, locality etc

5 Recent consultation exercises carried out

Detail consultation with relevant interest groups, other public bodies, voluntary organisations, community groups, trade unions, focus groups and other groups, surveys and questionnaires undertaken etc. Focus in particular on the findings of views expressed by the equality target groups. Such consultation exercises should be appropriate and proportionate and may range from assembling focus groups to a one to one meeting.

6 Additional factors which may influence disproportionate or adverse impact

Management Arrangements - How is the Service managed, are there any management arrangements which may have a disproportionate impact on the equality target groups?

7 The Process of Service Delivery

In particular look at the arrangements for the service being provided including opening times, custom and practice, awareness of the service to local people, communication

Please Note -

Reports/stats/data can be added as Appendix – Please send any reports/consultation findings/data and stats to the One Tower Hamlets team

Target Groups	Impact – Positive or Adverse What impact will the 'new' or 'significantly' amended policy or function have on specific groups of service users or staff?	Reason(s) <ul style="list-style-type: none"> • Please add a narrative to justify your claims around impacts and, • Please describe the analysis and interpretation of evidence to support your conclusion as this will inform members decision making • Can the negative impact be justified on the grounds of promoting equality?
Page 44		There have been two consultations in relation to the establishment of regulatory controls on sexual entertainment venues. The first, a more detailed consultation was held on the policy direction and the second a basic consultation on the adoption of the legislation which was a Yes/No response. Impacts of the policy can be viewed in the Cabinet report on the 11 th September 2013. The adoption of the legislation would have a neutral impact' it is the policy that would have relevant impacts.
Race	Neutral	
Disability	Neutral	
Gender	Neutral	
Gender Reassignment	Neutral	
Sexual Orientation	Neutral	
Religion or Belief	Neutral	

Age	Neutral	
Socio-economic	Potential adverse	SEV's are businesses and any policy or licensing decision that results in the cessation of an existing operation would have economic consequences for employees and the self-employed persons who work at the venues. Actual numbers and backgrounds are not known, however the nature of the establishments means that adverse economic impact would specifically fall upon female performers and their economic dependents. By establishing a policy position that allows existing operations to continue, there is no immediate adverse impact on this group*.
Marriage and Civil Partnerships.	Neutral	
Pregnancy and Maternity	Neutral	
Other council staff	Potential adverse	<p>The implementation of more stringent licensing policy and conditions is likely to require additional monitoring, evidence gathering and enforcement action to be undertaken by council staff. Appropriate training and support should be provided to protect staff engaged in these areas from any adverse impacts.</p> <p>The consultation carried out for the adoption of the legislation was a basic Yes/No response. The information detailed in the grid has been drawn from the consultation that has come from the provision of a policy – thus demonstrating the community interest in the enactment of a policy.</p> <p>The consultation for adoption was 97.8% not in favour of adopting the powers, but as discussed in the report, sexual entertainment venues had canvassed their supporters, which is their right, but may have skewed the community response.</p>

Section 4 – Conclusions and Recommendations

Is there any evidence of or view that suggests that different equality or other target groups have a disproportionately high/low take up of the service/function?

Yes

If yes, please detail below how evidence influenced and formed the policy? e.g. why things were added/removed.

O&S review findings
Consultation on adopting the policy
Campaign group responses
LGBT response
Consultation on adopting the legislation
Employment issues
Human Rights issues

Does the policy/function comply with equalities legislation?

Yes

If there are gaps in information or areas for further improvement, please list them below:

Scientific research in relation to SEV's is not sufficiently developed in relation to their impact on protected groups to support more detailed impact assessment.

How will the results of this Equality Analysis feed into the performance planning process?

The SEV project and this associated EA have been incorporated into the Service Plan for Business Regulation and Consumer Protection along with appropriate measures and milestones for delivery, performance monitoring and review.

Section 5 – Action Plan and Monitoring Systems

As a result of these conclusions and recommendations what actions (if any) **will** be included in your business planning and wider review processes (team plan)? Please consider any gaps or areas needing further attention.

Recommendation	Key activity	Progress milestones including target dates for either completion or progress	Officer responsible	Progress
Example 1. Better collection of feedback, consultation and data sources 2. Non-discriminatory behaviour	1. Create and use feedback forms. Consult other providers and experts 2. Regular awareness at staff meetings. Train staff in specialist courses	1. Forms ready for January 2010 Start consultations Jan 2010 2. Raise awareness at one staff meeting a month. At least 2 specialist courses to be run per year for staff.	1.NR & PB 2. NR	

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Recommendation	Key activity	Progress milestones including target dates for either completion or progress	Officer responsible	Progress
Further consideration of equalities impacts on protected groups are recommended in situations where licensing decisions are due to be taken that could result in removal of that license.	Undertake EA's to accompany applications for SEV licences as and when these are presented to the Licensing Committee	Target dates are dependent upon license expiry and application dates.	David Tolley	
Appropriate training and support should be	Service Plan and PDR process actions	Service Plan and PDR cycle	David Tolley	

provided to protect staff engaged in these areas from any adverse impacts.				
Maintain ongoing review of SEV related research	Continue to monitor research to further inform analysis of equalities impacts	Ongoing	David Tolley	

Have monitoring systems been put in place to check the implementation of the policy/function and recommendations?

Yes

How will the monitoring systems further assess the impact on the equality target groups?

A set of operating conditions form an intrinsic part of the Policy and associated licensing controls. These include controls that have been specifically designed to improve protection of the public in external areas and performers inside the establishments. Breaches of these conditions (and therefore likely to have a negative impact on protected groups) will result in the implementation of enforcement controls and any breaches will form part of the material considerations for the Licensing Committee at the point at which applications for licence renewals are considered and determined.

Section 6 – Completed Equality Analysis

The draft Equality Analysis will be peer assessed and recommendations made (if needed)

Once any recommendations have been made to the equality analysis – it will be sent back to the author to be signed off by the relevant service head/manager. The equality analysis will then be sent to the One Tower Hamlets Team to be published on the council website.

Name: (signed off by)	
Position:	

Date signed off: (approved)	

Section 7 Appendix – FOR OFFICE USE ONLY

This section to be completed by the One Tower Hamlets team

Policy Hyperlink:

Equality Strand	Evidence
Race	
Disability	
Gender	
Sexual Orientation	
Religion and Belief	
Age	
Socio-Economic	
Other	

Link to original EQIA	Link to original EQIA
EQIAID (Team/Service/Year)	

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Full Equality Analysis

Section 1 – General Information

Name of policy or function:

Sexual Entertainment Venues Policy

Business Unit:

CLC, Safer Communities, Consumer and Business Regulations

Is this a policy or function?

Policy with associated licensing functions

Is this a new or existing policy or function?

New

Is the policy or function strategic, developmental or operational/functional?

Operational/Functional

Date when the original policy/function was initiated: N/A

Date on which the policy/function is to be reviewed: Cabinet tbc

Names and roles of the people carrying out the Equality Analysis:

Oscar Ford: Strategy & Business Development Manager (CLC Equalities Lead)
David Tolley: Head of Consumer and Business Regulations Service (CLC)
Frances Jones: OneTower Hamlets Service Manager (Scrutiny & Equality)

Section 2 – Aims and Objectives

What are the aims, objectives or purpose of the policy/function?

Legislation gives local authorities the opportunity to control SEV's. The legislation was drafted to allow communities to have a say about whether sex establishments should be allowed to operate in their community and it gives the local authority the power, through its licensing policy arrangements, to determine limits on numbers and localities.

The Council's draft Sex Establishment Policy was developed with "One Tower Hamlets" as a key part of its rationale and it is drafted to establish a clear and unambiguous position on Sexual Entertainment Venues.

What are the main activities of the policy/function?

The policy establishes a cap on the total number of SEV premises that will be licensed, and it provides a basis for agreeing or refusing licenses with reference to:

- The suitability of any given location
- The management of the establishment
- The conduct within, and in the vicinity of (i.e., associated with) the establishment.

The policy includes both statutory and discretionary conditions that protect performers and help control the management of the premises.

Who is expected to benefit from the policy/function?

The policy affects the whole borough and potentially everyone that lives in, works in or visits the area and whom might be affected by the existence and operation of sexual Entertainment Venues in the locality. It has particular relevance for people who own, work in or frequent SEV's.

The policy is based on a consideration of the potential impact of SEV's on these groups as well as the wide community and is aimed at ensuring that any negative impacts on individuals or the community that might arise as a consequence of the operation of SEV's are minimised or negated.

Section 3 – Consideration of data and research Identifying Differential / Adverse Impacts

Question -

A policy/function can aim to treat all people fairly but unless you analyse data and stats and speak to the people it is going to affect how do you really know?

Evidence Base -

For each of the equality strands in the table below please now **evidence** how you came to the conclusions around differential and negative impacts in relation to the policy or function.

Please use the evidence prompts below to form an evidence base to justify your claims around differential impacts. If there is limited evidence we **strongly recommend** undertaking consultation

Please note – during consultation, if you identify a differential impact it may be advantageous to discuss whether this impact is also negative and record your findings accordingly. If no differential impact is identified there will be NO negative impact.

Evidence Prompt

1 List all qualitative and quantitative evidence

List all examples of quantitative and qualitative data available

(include information where appropriate from other directorates, Census 2001 etc)

- Tower Hamlets Community Plan.
- Tower Hamlets Crime & Drug Reduction Partnership Plan.
- Tower Hamlets Enforcement Policy.
- Tower Hamlets Core Strategy.
- TowerHamletsTown Centre Spatial Strategy.
- Tower Hamlets Statement of Licensing Policy (Licensing Act 2003).
- Tower Hamlets Statement of Licensing Policy (Gambling Act 2005).

2 Equalities profile of users or beneficiaries

Use the Council's approved diversity monitoring categories and provide data by target group of users or beneficiaries to determine whether the service user profile reflects the local population or relevant target group or if there is over or under representation of these groups

The current premises that are offering some form of sexual entertainment are:

NAME	ADDRESS
THE BEEHIVE	104-106 Empson Street, London, E3 3LT
EONE CLUB	168 Mile End Road, London, E1 4LJ
NAGS HEAD PUBLIC HOUSE	17-19 Whitechapel Road, London, E1 1DU
THE PLEASURE LOUNGE	234 Cambridge Heath Road, London, E2 9NN
WHITE SWAN	556 Commercial Road, London, E14 7JD – LGB venue
ASTON'S CHAMPAGNE AND WINE BAR BASEMENT & 1ST FLOOR	187 Marsh Wall, London, E14 9SH
CLUB PAISA	28 Hancock Road,London, E3 3DA
OOPS	30 Alie Street, London, E1 8DA
WHITE'S GENTLEMANS CLUB	32-38 Leman Street, London, E1 8EW
SECRETS	43-45 East Smithfield,London,E1W 1AP
IMAGES	483 Hackney Road, London, E2 9ED

3 Equalities profile of staff

Indicate profile by target groups and assess relevance to policy aims and objectives e.g. Workforce to Reflect the Community. Identify staff responsible for delivering the service including where they are not directly employed by the council.

4 Barriers

What are the potential or known barriers to participation for the different equality target groups? Eg, communication, access, locality etc

5 Recent consultation exercises carried out

Detail consultation with relevant interest groups, other public bodies, voluntary organisations, community groups, trade unions, focus groups and other groups, surveys and questionnaires undertaken etc. Focus in particular on the findings of views expressed by the equality target groups. Such consultation exercises should be appropriate and proportionate and may range from assembling focus groups to a one to one meeting.

The Consultations carried out involved Legal Submissions, Focus Groups and questionnaires. The following background of respondents was reviewed.

Gender	Number of Responses	Percentage of responses
Male	1,026	23.8%
Female	2,203	51.3%
Transgender	12	0.3%
Prefer not to say	113	2.6%
Not stated	948	22.0%

Age	Number of Responses	Percentage of responses
12-19	120	2.8%
20-25	519	12.1%
26-34	1,028	23.9%
35-43	742	17.2%
44-52	454	10.6%
53-59	206	4.8%
60-64	96	2.2%
65+	104	2.4%
Prefer not to say	115	2.7%
Not stated	918	21.3%

Ethnicity	Number of Responses	Percentage of responses
Asian or Asian British	1,467	34.0%
Black or Black British	154	3.6%
Mixed/Dual Heritage	128	3.0%
White	1,201	28.0%
Other	0	0.0%
Prefer not to say	312	7.2%
Not stated	1,040	24.2%

Religion	Number of Responses	Percentage of responses
None	558	13.0%
Buddhist	40	0.9%
Christian	616	14.3%
Hindu	32	0.7%
Jewish	43	1.0%
Muslim	1,286	29.9%
Sikh	27	0.6%
Other faith	76	1.8%
Prefer not to say	542	12.6%
Not stated	1,082	25.2%

Disability	Number of Responses	Percentage of responses
Yes	136	3.2%
No	2,577	59.9%
Prefer not to say	351	8.2%
Not stated	1,238	28.8%

Sexual Orientation	Number of Responses	Percentage of responses
Bisexual	147	3.4%

Gay man or lesbian/gay woman	161	3.7%
Heterosexual	2,123	49.3%
Other	579	13.5%
Not stated	1,292	30.0%

6 Additional factors which may influence disproportionate or adverse impact

Management Arrangements - How is the Service managed, are there any management arrangements which may have a disproportionate impact on the equality target groups?

7 The Process of Service Delivery

In particular look at the arrangements for the service being provided including opening times, custom and practice, awareness of the service to local people, communication

The Sexual Entertainment Policy covers the detail of how to apply etc,

Please Note -

Reports/stats/data can be added as Appendix – Please send any reports/consultation findings/data and stats to the One Tower Hamlets team

Target Groups	Impact – Positive or Adverse What impact will the 'new' or 'significantly' amended policy or function have on specific groups of service users or staff?	Reason(s) <ul style="list-style-type: none"> • Please add a narrative to justify your claims around impacts and, • Please describe the analysis and interpretation of evidence to support your conclusion as this will inform members decision making • Can the negative impact be justified on the grounds of promoting equality?
Race	Positive	The consultation response identifies distinct differences in views between people of different racial backgrounds. 74% of Asian/Asian British respondents were in favour of a total Nil policy, whereas 72% of Black/Black British respondents, 90% of Mixed/Dual Heritage respondents and 76% White respondents were against the proposed nil policy.
Disability	Neutral	
Gender	Positive	Just under half of female consultation respondents (47%) were supportive of the 'Nil' policy proposal. Research findings from another Borough indicate that women may in particular avoid areas around to SEV's at night. A broader consideration is the impact that SEV's may have on attitudes towards women through the 'normalisation' of male-oriented sexual entertainment and the encouragement or reinforcement of sexist attitudes. In the Borough we are not aware of people trafficking and that performers work in venues freely. Personal incomes would be affected if premises closed. The organisations OBJECT (a human rights organisation specifically set up to challenge the sexual objectification of women) and CAPE (Communities Against People Exploitation) presented written responses to the consultation supporting a nil policy on the basis that SEV's have a negative impact on the safety of women. OBJECT argued associations with prostitution and trafficking, along with the negative impact on attitudes towards women and the negative impact on aspirations of young women and girls as key drivers for their support.
Gender Reassignment	Neutral	

Sexual Orientation	Potential adverse	Consultation response from the local LGBT community forum Rainbow Hamlets highlighted a potential detrimental effect that might arise should a Nil policy be implemented, identifying an existing establishment as having a positive impact on community cohesion, especially amongst the LGBT community. By establishing a policy position that allows existing operations to continue, there is no immediate adverse impact on this group*.
Religion or Belief	Positive	The consultation response identifies distinct differences in views between people of different religious backgrounds. 82% of Muslim respondents were in favour of a total Nil policy, whereas 81% of Christian respondents and 75% of those who said they had no religious belief were against a nil policy.
Age	Neutral	
Socio-economic	Potential adverse	SEV's are businesses and any policy or licensing decision that results in the cessation of an existing operation would have economic consequences for employees and the self-employed persons who work at the venues. Actual numbers and backgrounds are not known, however the nature of the establishments means that adverse economic impact would specifically fall upon female performers and their economic dependents. By establishing a policy position that allows existing operations to continue, there is no immediate adverse impact on this group*.
Marriage and Civil Partnerships.	Neutral	
Pregnancy and Maternity	Neutral	
Other inc staff	Potential adverse	The introduction of more stringent licensing policy and conditions is likely to require additional monitoring, evidence gathering and enforcement action to be undertaken by council staff. Appropriate training and support should be provided to protect staff engaged in these areas from any adverse impacts.

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Employment issues
Human Rights issues

Does the policy/function comply with equalities legislation?

Yes

If there are gaps in information or areas for further improvement, please list them below:

Research in relation to SEV's is inconclusive as to the impact of the establishments on protected groups.

How will the results of this Equality Analysis feed into the performance planning process?

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Yes

How will the monitoring systems further assess the impact on the equality target groups?

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Page 6

Section 6 – Completed Equality Analysis

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Name: (signed off by)	
Position:	

Date signed off: (approved)	

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Equality Strand	Evidence
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Disability	
Gender	
Sexual Orientation	
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Other	

Link to original EQIA	Link to original EQIA
EQIAID (Team/Service/Year)	