

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Committee</b>		<b>Unclassified</b>		

Report of : <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Mohshin Ali</b> <b>Senior Licensing Officer</b>	Title: <b>Local Government (Miscellaneous Provisions) Act 1982 (as amended)</b> <b>Application for a renewal of a Sexual Entertainment Venue Licence for Whites Gentleman's Club, 32 - 38 Leman Street, London E1 8EW</b>  Ward affected: <b>Whitechapel</b>
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## 1.0 Summary

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

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

Objectors: **Local Residents**

## 2.0 Recommendations

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

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

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

Mohshin Ali  
020 7364 5498

### 3.0 Background

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

Relevant entertainment means:

- any live performance; or
- any live display of nudity;  
which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

- 3.3 The premises is currently granted a Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act 1982 (as amended). A copy of the existing licence is enclosed as **Appendix 1**.
- 3.4 The licence consists of the basic licence, plus additional conditions relevant to that premises only. In addition, the Tower Hamlets Standard SEV Conditions also apply and for part of the licence.

This licence was in force up to: 31<sup>st</sup> May 2016 or during the time that the licensee(s) is/are the occupier of the premises, whichever is the shorter period, or unless sooner surrendered or revoked.

The hours permitted are:

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

The named management responsible for this premises as quoted on the SEV licence are:

- David Stewart – Manager
- Mark Hawkins – Duty Manager
- Alan Southwick – Duty Manager

This licence is granted subject to conditions as follows:

1. The Standard Conditions of the London Borough of Tower Hamlets made under paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as revised on

23<sup>rd</sup> June 2015 and sent to the Licence Holder as part of the Decision Notice dated 17<sup>th</sup> July 2015. It is the duty of the licence holder to be aware of and abide by those conditions;

2. The following additional conditions specific to this Premises:

42. Without prejudice to Standard Condition 5, at least six SIA registered door supervisors shall constantly monitor the striptease entertainment in the Premises and ensure that all relevant conditions of this Licence are being complied with.

43. The relevant tariff must be drawn to the attention of each customer before they pay any fee or charge.

44. No charge may be made to any customer for any drink provided to a performer, hostess or companion unless a customer has expressly ordered it having been informed of the cost.

45. No charge shall be made to any customer for hire or use of any room, or reserved area within the Premises, unless the customer has first been made aware of the cost and signed an order from consenting for the charge to be made. The order form shall be counter-signed by the manager of the Premises. The order form shall state in a legible form:

- (a) the date and time of signature;
- (b) the room, or area to be used or hired by the customer;
- (c) the date, time and duration of the agreed hire or use of the room, or area;
- (d) the details as to what, if any, sexual or other entertainment will be provided and by how many performers;
- (e) the names of any agreed performers;
- (f) the total agreed price and manner of payment;
- (g) the full name of the manager; and
- (h) the full name of the customer.

The order form must be filled in and signed, and payment for the room or area taken, in the designated area shown on the attached plan. The designated area must be well-lit and covered by a CCTV camera which accurately records the transaction and the time and date of the footage. After payment is taken, the customer shall be provided with a receipt and the Licensee shall retain a copy.

- 3.5 The current renewal application is to permit the premises to operate as a sexual entertainment venue with opening hours as follows:
- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)
- 3.6 The premises also hold a licence under the Licensing Act 2003. A copy of the existing licence is enclosed as **Appendix 2**. The licence was

originally granted on 13<sup>th</sup> March 2006 and was amended further to a review on 21<sup>st</sup> June 2011 and a minor variation on 15<sup>th</sup> December 2014.

The licence granted the following licensable activities and opening hours:

**The sale by retail of alcohol:**

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

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

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

**Late Night Refreshment:**

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

**The opening hours of the premises:**

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)
- Note: However, New Year's Eve is subject to the Regulatory Reform (Special Occasion Licensing) Order 2002. Which means that while that order is in effect the premises may remain open for the twelve hours between 23:00hrs on New Year's Eve and 11:00hrs on New Year's Day.

3.7 A copy of the renewal application is enclosed as **Appendix 3**.

3.8 Maps of the premises location are available in **Appendix 4**.

3.9 Members should note that the two regimes run concurrently therefore the premises licence granted under the Licensing Act 2003 could effectively run without the SEV in operation, if alcohol and regulated entertainment was solely taking place.

**4.0 Layout of the Premises**

4.1 A layout plan of the premises is available in **Appendix 5**. The premises was visited on the 26<sup>th</sup> June 2016, attended by Licensing Officers, the premises' manager and their legal representative. A checklist of questions was completed with the Applicant. A copy of that checklist is available in **Appendix 6**.

The checklist covered the following points:

- The Code of Conduct for performers

- The House Rules
- The Performer Safety Policy
- Retention of performers' personal details
- Details of Door Staff attending each evening
- The venue interior and exterior (for example, whether the interior of the premises is visible from the outside)
- Public access areas and approved access to dressing rooms
- CCTV Coverage
- Functionality of the CCTV
- Advertising, both externally to the premises and online
- Information on tariffs, including both dances and beverages

4.2 In conclusion from that visit, the Licensing Officers were satisfied that all conditions of the licence were met. Management were cooperative and records were kept in working order.

4.3 A photograph(s) of the exterior of the premises is available in **Appendix 7**.

#### 5.0 **Adverts and Flyers**

5.1 The premises has two light boards on the exterior of the premises with the opening times of the premises only. On the front canopy of the premises there is a faded shadow portrait of what appears to be a woman in high heels. The Officers did not notice this at the time of the visit as it was away from vision above on the canopy. This can be seen in **Appendix 7**.

5.2 Copies of the adverts and flyers used to promote the premises are included at **Appendix 8**. The application form states *"flyers are distributed to drivers of private hire vehicles and hackney carriage licence holders only. These flyers provide information regarding introductory fees only. The flyers are not made available to members of the public"*. At the visit of the 26<sup>th</sup> June 2016, the management stated the advertising is done outside of Tower Hamlets.

5.3 The premises also have a website: <http://www.clubwhites.co.uk/>. There is no 'Over 18' entry tab.

#### 6.0 **Standard Conditions**

6.1 The Council has adopted Standard Conditions that were revised on 23<sup>rd</sup> June 2015, which act as default conditions that are attached to all Sexual Entertainment Venue Licences. These are available as part of the licence in **Appendix 1**.

## 7.0 Codes of Conduct and Policies

7.1 The Applicant has provided Codes of Conduct and policies as required by the Standard Conditions, see **Appendix 9**, namely:

- Code of Conduct for Dancers and Performers
- Dancers and Performers Welfare Policy
- Code of Conduct of Customers

7.2 During the compliance check visits, the Code of Conduct for Customers was available throughout the premises, at the main bar and on tables. The Code of Conduct for Performer and the Dancers' Welfare Policy was also available.

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

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

## 8.0 Assessment and information for the vicinity

8.1 **Appendix 10** is a map of the Licensing Service's determination of the vicinity around the premises, set at 100meters from the premises. It is noted that there have been some changes in the residential accommodation since the original application.

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

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

Residential accommodation	Commercial office space is situated directly above the premises. Including large office block next door.  The locality is a mix of residential & business/office space.  There are two large housing developments under construction Goodmans Fields junction of Alie Street/Leman St and & Aldgate Place junction of Buckle St/Leman Street. Cashmere House, 37 Leman Street, Flats 1-115 is now occupied.  The vicinity is mainly business/office blocks
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	<p>Aside from the new developments, residential accommodation is mainly situated West Tenter St; North Tenter St; East Tenter St; St Mark St and Scarborough Street</p> <p><u>Alie Street</u>  Flats 1-11, 22 Alie Street  Flats 1-11, 57 Alie Street  1-23 Lattice House  1-6 Network House  Altitude Point, 71 Alie Street (large highrise block of apartments)</p> <p>No. 65 Lemman St houses 617 rooms for student accommodation</p>
Schools	English Martyrs Catholic Primary School, St Mark St, E1 8DJ
Premises used by children and vulnerable persons	Job Centre, 83-85 Mansell Street, E1 8AP (with entrance at West Tenter Street)
Youth community and leisure centres	Anytime fitness, 18 Alie Street, E1 8DE David Lloyd Fitness Centre, 1 Alie Street, E1 8DE
Religious centres and public places of worship	St Georges German Lutheran Church, 55 Alie Street, E1 8EB Church of English Martyrs, Prescott Street, E1 8BB
Access routes to and from premises listed above	<p>The premises sit on the west side of Lemman Street (A1202), busy access road to the City.</p> <p>There are a number of bus routes, as well as night buses.</p> <p>Aldgate East Tube Station is a 2 minute walk away with Aldgate station and Tower Hill stations also nearby</p>
Existing licensed premises in the	<u>Lemman Street</u>

vicinity	<p><b>Public House:</b> Lemn Street Tavern, Unit 3 North West Block, Goodmans Fields, 31 Lemn Street, London E1 8PT (addition).</p> <p><b>Public House:</b> Oliver Conquest, 70 Lemn Street, E1 8EU</p> <p><b>Supermarket:</b> Sainsbury, Unit 2, Southwest Block, Goodman's Fields, Lemn Street, E1 8EJ</p> <p><b>Restaurant and Public House:</b> The Old Dispensary, 19a Lemn Street, E1 8EN</p> <p><b>Public House:</b> Black Horse PH, 40 Lemn St, E1 8EU</p> <p><u>Alie Street</u>  <b>Public House:</b> White Swan, 21 Alie Street, E1 8DA</p> <p><b>Hotel:</b> Thyme (Premier Inn), Goodmans Fields, Alie Street, E1 8DE</p> <p><b>SEV Premises: Club Envie/Falimgo,</b> 30 Alie St, E1 8DA</p> <p><u>St Mark Street</u>  <b>Restaurant:</b> Halal Restaurant, 2 St Mark Street, E1 8DJ</p> <p><b>Supermarket:</b> City Food Store, 8 St Mark St, E1 8DJ</p> <p><u>Mansell Street</u>  <b>Supermarket:</b> Sainsbury, 27 Mansell Street, E1 8AA</p>
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## 9.0 **Assessment and information for the Locality**

9.1 **Appendix 11** contains the Ward Profile of Whitechapel to provide members with details in relation to the locality of the premise. It should be noted that this is the most up-to-date available, though it dates to 2014.

9.2 What is the "relevant locality":.

- The relevant locality was assessed as being within a 100 metre radius centred on the premises, 32-38 Lemn Street.



- The premises sits on the A1202 (Leman Street) which junctions with Commercial Road and Whitechapel High Street which are red routes and sit on one of the main routes into Central London and out to the East.
- The vicinity is a mix of commercial and residential accommodation

### 9.3 The “character” of the locality:

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

## 10.0 Other Sexual Entertainment Venues

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

- **Club Envie (now Flamingos)** 30 Alie Street, London, E1 8DA
- **Metropolis** 234 Cambridge Heath Road, London, E2 9NN
- **Nags Head** 17-19 Whitechapel Road, London, E1 1DU
- **Whites Gentleman’s Club** 32-38 Leman Street, London, E1 8EW
- **White Swan** 556 Commercial Road, London, E14 7JD

## 11.0 Consultation

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

This has included:

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

b) A press advert was placed in the Docklands and East London Advertiser on the 2<sup>nd</sup> June 2016 by the Applicant, which again is appended as **Appendix 13**.

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

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

## 12.0 Responses to the Consultation

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

- None

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

- None

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

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

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

- None

12.5 Ward Councillors were consulted, please find below a summary of their comments.

- None

12.6 A local church, a school and local residents (Members should note that no written public consultation is required for the renewal process) made a number of written representations. These are available in **Annex 14**. Copies of these have been supplied to the Applicant's legal representative with all personal details redacted. Please find below a summary of their comments:

- Noise from mini cabs outside the venue
- Anti-social behaviour from patrons of the venue, including harassment, nuisance, urination, vomiting, verbal abuse and using the front doors of residents as a toilet
- Noise from customers on egress
- The proximity to a growing number of residential premises and a school and the resulting changing demographics of the area
- That the nature of the business is no longer appropriate to its location;
- The premises location in proximity to residential accommodation;
- The premises location in proximity to student accommodation;
- The premises location in proximity to hotels;
- The premises location in proximity to a local school;

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

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

12.9 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.

### 13.0 Licensing Authority Recommendations Following Consultation

13.1 There have been no representations from any of the authorities that have been consulted. The application has received representations from local residents and a local school. Members are asked to consider these representations when determining the renewal application.

### 14.0 Summary of Premises and Licence History

14.1 The current premises licence has been in place since 13<sup>th</sup> March 2006. The licence was amended following a review on the 21<sup>st</sup> June 2011 and then by a minor variation on the 15<sup>th</sup> December 2014. A copy of the existing premises licence is available in **Appendix 1**.

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

14.3 The Designated Premises Supervisor is was changed to Charles Rapson Fishlock on the 30<sup>th</sup> March 2016.

### 15.0 Complaints and Enforcement History

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

Date	Complainant	Nature of Complaint
20/11/2014	Patron	Complaint about the general running of the club. That he regularly witnesses customers being taken advantage of financially and that they are plied with alcohol. The complainant claims that the premises is mismanaged and that the licence holder does not make themselves available to complainants. Advice letter sent in response.
08/12/2014	Patron	Complaint that his card was being misused. He was charged £2000, thought failed transactions for £5,000 and £5,000 had been attempted. Complains that he was intoxicated and therefore would have reduced capacity. Referred to Police re. Potential fraud.
08/12/2014	Patron	Complaint of payments taken from card - £1,800 and £460 without permission. However, was intoxicated at the time.

04/03/2015	Patron	Complainant claims to have been overcharged £1,430. Alleges that rohypnol may be used by the premises. Advice provided by Trading Standards.
16/09/2015	Anonymous public	Complainant alleged that the premises was often open until 6/7am.
4/12/2015	Patron	Allegation of complainant's drinks being spiked and total value of £10,000 taken from credit card without complainant's recollection. Already being looked into by Police and Trading Standards advised as to make a civil claim.

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

Date	Authority (TS/Lic)	Nature of visit
18/02/2015	Licensing, Trading Standards and Police	Compliance visit for SEV application for Licensing. Trading Standards discussed complaints in relation to patrons being potentially overcharged, concerns that the costs are not clear.
24/02/2015	Trading Standards	Visit in relation to potential overcharging of patrons – CCTV of payments viewed. It was decided that pricing was not clear to customers and that this would be addressed by asking the Licensing Committee to add conditions in relation to pricing on the SEV licence.
24/04/2015	Licensing	Licensing visit to the premises along with a councillor and licence holder and licence holder's legal representative. Brief inspection of premises. Premises were compliant.
20/11/2015	Licensing, Trading Standards and Police	During the inspection, the venue was broadly compliant. However, there are some areas of concern: <ul style="list-style-type: none"> <li>When Officers arrived at the premises we were not permitted immediate entry. Security made us wait outside until management had been radioed and sent to meet us. This is not</li> </ul>

		<p>adequate, the Police or Officers of the Authority should be admitted as soon as they arrive, upon producing appropriate identification and/or warrants;</p> <ul style="list-style-type: none"> <li>• The SEV licence is on the wall, framed, however, only the first page is displayed. The whole licence needs to be available to view;</li> <li>• The House Rules must be made available to patrons upon entry. At present, the door opens on to the rules thereby concealing them. This sign needs to be moved to a prominent position;</li> <li>• There are serious concerns in regards to the CCTV. It was explained to me, that as a result of a vermin infestation, rodents had bitten through various cables leading to a hard drive. Whilst the CCTV was recording current activity, any historical data had been lost. If CCTV was inoperable in an area in the Club, that area had been closed (including some of the private performance rooms). The Authority had not received prior notice of this issue. I have therefore asked that the Authority be formally written to with an explanation of these incidents. Further we have asked that the areas without CCTV remain closed. The affected hard drive requires forensic examination to see if lost data can be retrieved and an example sent to us. The Standard Conditions make it very clear that footage be retained for 31days, and therefore the venue is currently in breach of that condition.</li> </ul> <p>Response letter received on the 11<sup>th</sup> January 2016 from licence holder advising that repair works and recommendations by Trading Standards regarding the CCTV system are being carried out. A service report from "Bromley Security Systems" included.</p>
09/06/2016	Licensing	SEV public notice check. All ok
24/06/2016	Licensing	Renewal compliance check visit. See <b>Appendix 6</b> for the checklist.

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

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

## 16.0 Policy - Appropriate Number of Sexual Entertainment Venues

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

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

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

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

## 17.0 Home Office Guidance

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

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

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

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

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

## **18.0 Licence Conditions**

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

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

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

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



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

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

## 19.0 **Sexual Entertainment Venues and Determination**

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

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

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

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

19.2 A copy of LBTH Sexual Entertainment Venue Policy is produced in **Appendix 15** for Member's information.

## 20.0 Legal Comments

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

20.2 The mandatory grounds for refusal are as follows:

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

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

The discretionary grounds for refusal are as follows:

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

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

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

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

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

#### **21.0 Finance Comments**

21.1 The Chief Finance Officer has been consulted on this report and has no additional comments to make.

## 22.0 Appendices

<b>Appendix 1</b>	A copy of the existing SEV Licence (including the LBTH Standard Conditions)
<b>Appendix 2</b>	A copy of the existing Premises Licence
<b>Appendix 3</b>	A copy of the renewal application
<b>Appendix 4</b>	Maps of the premises showing the site location
<b>Appendix 5</b>	Location plan and internal layout plans of the premises
<b>Appendix 6</b>	Compliance Visit Checklist
<b>Appendix 7</b>	Photographs of the premises
<b>Appendix 8</b>	Copies of the adverts and flyers used to promote the premise
<b>Appendix 9</b>	Code of Conduct for Performers, Code of Conduct for Customers (House Rules) and Dancers Welfare Policy
<b>Appendix 10</b>	Vicinity Map
<b>Appendix 11</b>	Ward Profile
<b>Appendix 12</b>	Copy of Site Notice
<b>Appendix 13</b>	Copy of Press Advert
<b>Appendix 14</b>	Representations by Members of the Public
<b>Appendix 15</b>	Copy of LBTH SEV Policy