



Licensing Committee

Mon 2 Mar
2015
7.00 pm

Committee Room 2
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council's Website:
www.redditchbc.gov.uk

If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact

**Pauline Ross
Democratic Services Officer**

**Town Hall, Walter Stranz Square, Redditch, B98 8AH
Tel: 01527 881406
e.mail: p.ross@bromsgroveandredditch.gov.uk**

Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Democratic Services Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Democratic Services Officer.

Special Arrangements

If you have any particular needs, please contact the Democratic Services Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Democratic Services Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency **Assembly Area** is on **Walter Stranz Square**.



Licensing

Committee

Monday, 2nd March, 2015

7.00 pm

Town Hall

Agenda

Membership:

Cllrs:	Pattie Hill (Chairman)	Gay Hopkins Wanda King
	Alan Mason (Vice-Chair)	Rachael Smith Paul Swansborough
	Roger Bennett	David Thain
	Natalie Brookes	John Witherspoon
	Andrew Fry	

1. Apologies	To receive the apologies of any Member who is unable to attend this meeting.
2. Declarations of Interest	To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
3. Minutes	To confirm as a correct record the minutes of the meeting of the Licensing Committee held on 3rd November 2015. (Minutes attached)
4. Draft Scrap Metal Licensing Policy and Guidelines - Consultation responses (Pages 1 - 24)	To consider a report detailing the responses received during consultation on the draft Scrap Metal Licensing Policy and Guidelines with residents, scrap metal dealers and stakeholders; and to consider the final Scrap Metal Licensing Policy and Guidelines following consultation. All Wards
5. Draft Sex Establishment Policy and Guidelines (Pages 25 - 60)	To consider a report detailing the draft Sex Establishment Licensing Policy and Guidelines for the purpose of consultation with relevant stakeholders and the general public All Wards
6. Licensing Committee Work Programme 2014/2015 (Pages 61 - 62)	To consider the Committee's Work Programme for the current municipal year 2014/2015. All Wards

REDDITCH BOROUGH COUNCIL**LICENSING COMMITTEE**2nd March 2015**SCRAP METAL LICENSING POLICY AND GUIDELINES**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ivor Pumfrey – Acting Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Redditch Borough Council is responsible for issuing site and collector licences under the Scrap Metal Dealers Act 2013. This report presents the response received during consultation on a draft policy and guidelines for the licensing of scrap metal sites and collectors in the Borough and asks Members to approve the finalised policy and guidelines.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

To approve the finalised policy and guidelines.

3. KEY ISSUES**Financial Implications**

- 3.1 The costs involved in carrying out the consultation were met by existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Council is under no legal obligation to have a policy in place. However, this policy will assist the Council in achieving consistency, fairness and transparency in its decision making process.
- 3.3 Application of the policy in the decision making process will enable the Council to minimise successful legal challenges and appeals. Officers and the Committee should have regard to all the circumstances of a particular case and would be entitled to have due regard to this policy.

LICENSING COMMITTEE2nd March 2015

Service / Operational Implications

- 3.4 The Scrap Metal Dealers Act 2013 (the Act) was introduced to replace the previous regulatory scheme for scrap metal dealers and for vehicle dismantlers. It requires anyone who deals in scrap metal to obtain and display a relevant licence and gives the police and local authorities more powers of entry and inspection as well as allowing a more thorough application process where licences can be refused and subsequently revoked if dealers are deemed 'unsuitable'.
- 3.5 The Committee has previously received reports to brief them on the provisions of the Act, which came into force on 1st October 2013, with full enforcement powers coming into effect on 1st December 2013. The Council has agreed the fees to be charged and the delegation of functions relating to the licensing processes under the Act.
- 3.6 A draft policy was then produced which aims to give clear guidance as to how the Council will administer and enforce the requirements of the Act. The draft policy was prepared in accordance with the Act and the regulations that govern it.
- 3.7 The provision of a policy and guidelines aims to provide residents, applicants and other agencies with a benchmark of the licensing authority's expectations and will assist them in understanding statutory requirements. This document will also assist people to submit complete and accurate applications thereby reducing unnecessary work and delays.
- 3.8 It is intended to ask each of the six district Councils in Worcestershire to adopt a similar policy to improve consistency of practise and decision making across the County.
- 3.9 Members approved the draft policy for the purpose of consultation at the Licensing Committee meeting on 3rd November 2014.
- 3.10 Consultation subsequently took place with relevant partners and representatives of the metal recycling industry. Consultation took place electronically and approximately twelve weeks was provided for people to provide their feedback on the draft policy.
- 3.11 Only one response was received during the consultation from the British Metals Recycling Association (BMRA). The BMRA's response can be seen in full at **Appendix 1**.
- 3.12 The response is very helpful and a number of the suggested amendments have been incorporated in the finalised policy and guidelines document that can be seen at **Appendix 2**.
- 3.13 Members are now asked to approve this finalised policy and guidelines document.

LICENSING COMMITTEE2nd March 2015

4. RISK MANAGEMENT

- 4.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal. Consultation with relevant stakeholders will minimise the risk of challenge.

5. APPENDICES

- Appendix 1 – Response from BMRA
Appendix 2 – Finalised Policy and Guidelines

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
Worcestershire Regulatory Services
E Mail: d.etheridge@worcsregservices.gov.uk
Tel: (01527) 534121



BMRA response to Redditch Borough Council draft “Statement of Licensing Policy and Guidelines for Scrap Metal”

The British Metals Recycling Association (BMRA) is the trade association for ferrous and non-ferrous recycling companies throughout the UK and represents some 340 businesses which between them handle over 95% of the metal recycled in the UK. This £5.6 billion industry processes over 15 million tonnes of metal annually into secondary raw material, which is vital for metals manufacturing.

We welcome the Council’s decision to set out a clear statement of policy to guide its officers, and the opportunity to comment on the draft policy document. In our comments set out below; references to “the Act” relate to the Scrap Metal Dealers’ Act 2013.

Paragraph in draft	Comment
1.1	<p>The final sentence presents a somewhat restricted assessment of the reason for creation of the Scrap Metal Dealers’ Act 2013. We suggest it would be hard to improve on the words of Richard Ottaway MP, sponsor of the legislation, who is reported in the “LGA Guide to the Scrap Metal Dealers’ Act 2013” to have said that it would:</p> <p><i>“provide the strong legislative framework ... needed to empower our local councils and police forces in their fight against offenders who wilfully plunder this country of metal, whilst also strengthening and supporting legitimate scrap metal dealers”.</i></p>
2.1	<p>Suggest adding after “industries”:</p> <p><i>“across England and Wales”</i></p>
2.8	<p>Perhaps insert “scrap metal” ahead of “dealer”.</p>
2.9	<p>Note that jewellers buying or selling scrap metals other than gold or silver do constitute scrap metal dealers, albeit that there is the possibility of some exemption from licencing under S21(c) of the Act for certain sales (but not for purchases). A court may consider the practice of buying or selling metallic articles at scrap value to indicate that the material fits the definition of scrap metal (see S21(6) of the Act). We suggest adding after “in this legislation.”:</p> <p><i>“However, if they buy or sell any other metals at scrap value they may fall within the definition of a scrap metal dealer”.</i></p>
2.9	<p>Second paragraph under 2.9 relating to vehicles.</p> <p>Whilst we have no argument about the reference to “re-usable and tested parts” not falling within the definition of scrap, we are less sanguine about vehicles. The statement “<i>will not be considered as scrap</i>” in the second line of paragraph 2.9 is unduly conclusive and may be incorrect. S21(6)(b) of the Act says that scrap metal includes “<i>any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life</i>”. As such a vehicle, with or without a certificate of destruction, may constitute scrap. Disposal by sale to a vehicle dismantler would seem to indicate that to be the case.</p>

Paragraph in draft	Comment
4.3	<p>The consultation options available to a licensing authority under S3(7) and 4(3) of the Act in assessing suitability are broader than indicated. Unless the Council intends to limit its licensing officers' activities we suggest replacing "<i>may consult with the following agencies</i>" with:</p> <p style="text-align: center;"><i>"may consult other persons , including in particular"</i></p> <p>Alternatively you could set a more complex policy restricting consultation outside the specified agencies to cases where objections have been raised or where an officer has particular concerns about an application.</p>
6.2	<p>Experience of continuing problems with accuracy of information hosted on the Environment Agency public registers suggests it would be useful as a matter of policy for the Council also to check the accuracy of information on the register relating to licences it has issued on a regular basis. At present we understand that amendments provided by councils in the first half of one week should be incorporated into the register (currently at http://epr.environment-agency.gov.uk/ePRInternet/SearchRegisters.aspx) by the beginning of the following week.</p>
8	<p>S11(2) of the Act and Statutory Instrument 2276 of 2013 refer. We suggest adding a further sub-paragraph along the lines of:</p> <p style="text-align: center;"><i>"8.3 It should be noted that whilst Statutory Instrument 2276 of 2013 sets out documents that are sufficient to verify the identity of a person from whom scrap metal is received, the list is not exclusive and a court may consider other documents to be satisfactory"</i>.</p> <p>We understand that, in the absence of case law, the Council may be reluctant to specify any such other documents. However, for information, one example we have come across that has been tacitly accepted by some police forces is a shotgun or firearms certificate.</p>
11.8	<p>You may wish to consider specifying the type of evidence of identity and authority your officers should have available if challenged.</p>
14.4	<p>You may wish to consider adding a reference to the authority identifying relevant offences, currently Statutory Instrument 2258 of 2013.</p>
15.2	<p>Perhaps surprisingly, the legislation relating to closure orders at Section 2, paragraph 5.3, is more flexible than your policy statement indicates. Where your policy document states that a closure order "<i>will close the premises immediately</i>", and that the operator "<i>will also be required to pay a sum into court</i>", Schedule 2, paragraph 5(3) of the Act uses the word "<i>may</i>".</p>

If you wish to discuss any aspect of this response, please contact Ken Mackenzie on 01480 455249, email ken@recyclemetals.org, or write to us at:

British Metals Recycling Association
 16 High Street
 Brampton
 Cambridgeshire, PE28 4TU

12 November 2014



REDDITCH BOROUGH COUNCIL

**STATEMENT OF LICENSING POLICY AND GUIDELINES
FOR SCRAP METAL**

CONTENTS

SECTION	CONTENT	PAGE NO
1.	Introduction	2
2	Background	3 & 4
3.	Types of Licence	4 & 5
4.	Suitability	5
5.	Supply of Information by Authority	6
6.	Register of Licences	6
7.	Display of Licence	6
8.	Verification of Supplier's Identity	6
9.	Payment for Scrap Metal	7
10.	Records – Receipt of Metal	7
	Records - Disposal of Metal	7 & 8
	Records – Supplementary	8
11.	Right of Entry & Inspection	8 & 9
12.	Application Procedure	9, 10 & 11
13.	Appeals	11
14.	Revocation and Imposing Conditions	11 & 12
15.	Closure of Unlicensed Sites	12 & 13
16.	Delegation of Functions	14
17	Enforcement	15
18.	Offences & Penalties	15 & 16

1. Introduction

- 1.1 Metal theft over recent years has had a significant impact on communities, businesses and local authorities alike. Such thefts have seen communications and the train network disrupted, historic buildings, churches etc. desecrated, and everybody's safety put at risk with inspection covers, drainage gully covers and road signage being stolen. The Scrap Metal Dealers Act 2013 has been created to help prevent some of the previous issues surrounding the sale, collection, storage and disposal of scrap metal. The Act provides a stronger legislative framework to empower local authorities and police forces in their fight against metal thieves, whilst strengthening and supporting legitimate scrap metal dealers.
- 1.2 This Policy outlines the requirements of the Scrap Metal Dealers Act 2013 (the Act). It gives guidance to new applicants, existing licence holders, consultees and members of the public as to how the Council will administer and enforce the requirements of the Act.
- 1.3 Redditch Borough Council (the Authority) under the Act may depart from this policy if individual circumstances of any case warrant such a deviation. In such cases the Authority must give full reasons for doing so.
- 1.4 This Policy will be reviewed on a regular basis. In the preparation and publication of this Policy in addition to residents and scrap metal dealers, the following will be consulted:
 - a) West Mercia Police
 - b) The Environment Agency
 - c) Environmental Health
 - d) Trading Standards
 - e) British Transport Police
 - f) Existing Licence Holders
 - g) Relevant Trade Associations
 - h) The Council's Development Control Team
 - i) Feckenham Parish Council
 - j) Hereford and Worcester Fire & Rescue Service

2. Background

- 2.1 The Scrap Metal Dealers Act 2013 came into effect on 1st October 2013, with full enforcement powers coming into effect on 1st December 2013. It repeals previous legislation and creates a revised regulatory regime for scrap metal recycling and vehicle dismantling industries across England and Wales.
- 2.2 The Act defines a 'scrap metal dealer' as a person who carries on the business which consists wholly or in part of the buying or selling of scrap metal, whether or not the metal is sold in the form it was bought. This does not include manufacturing operations that sell metal as a by-product of the processes being used in that operation. It does, however, include the business of collecting scrap metal, i.e. door to door collectors even if no money is paid for scrap metal collected.
- 2.3 The definition of scrap metal dealer is wide and may include skip hire firms, and tradesmen, such as plumbers and builders who sell scrap metal resulting from their businesses.
- 2.4 In these circumstances, each business will be considered on its own merits, but consideration will be given to the amount of metal sold and how incidental the sale is to the main business. So, in most cases, for plumbers, electricians and builders etc. the sale of metal will be incidental and should not require a licence. However, skips sited at demolition sites, or at engineering manufacturing sites or plumbers' yards, are likely to contain a significant amount of metal, so the skip hire company may require a licence if they are involved in the buying or selling of scrap metal.
- 2.5 The Act identifies the local authority of each district as the principal regulator for their area and gives them the power to regulate these industries by the ability to refuse licences to 'unsuitable' applicants and the power to revoke those licences held by licence holders who become 'unsuitable'.
- 2.6 The Act states that 'scrap metal' includes:
- any old, waste or discarded metal or metallic material, and
 - any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life
- This definition includes platinum and other rare metals now being used in catalytic converters and vehicle exhausts.
- 2.7 The following is **not** considered to be 'scrap metal'
- gold;
 - silver, and
 - any alloy of which 2 per cent or more by weight is attributable to gold or silver.
- 2.8 A scrap metal dealer also includes someone carrying on the business as a motor salvage operator. Motor salvage operator is defined as a business that:

- wholly or in part recovers salvageable parts from motor vehicles for re-use or re-sale, and then sells the rest of the vehicle for scrap;
- wholly or mainly involves buying written-off vehicles and then repairing and re-selling them;
- wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and re-selling them.

2.9 The Act is not intended to include second hand goods. Jewellers or businesses trading in second hand gold, silver and products are not included in this legislation. However, if they buy or sell any other metals at scrap value they may fall within the definition of a scrap metal dealer.

2.10 Vehicles without a certificate of destruction, with or without a valid MOT or re-usable & tested parts removed from an end of life scrap vehicle may not be considered as scrap but as a vehicle commodity and could therefore be classed as second hand goods. Other vehicles are likely to be considered scrap. These aspects will be considered when the Council determines whether or not a scrap metal dealer licence is required. It should also help prevent any motor salvage operators attempting to circumvent the legislation and its requirements.

2.11 Any words or expressions in this Policy have the meaning assigned to them under the Act.

3. Types of Licence

3.1 A licence is required to carry on business as a scrap metal dealer. A licence once granted lasts for three years. Trading without a licence is a criminal offence.

3.2 There are two types of licences specified in the Act:

Site Licence

All sites operating as a scrap metal business must be licensed. Each site must have a named site manager. A site licence allows the licence holder to transport scrap to and from the site from any local authority area.

Collector's Licence

This licence allows the holder to collect scrap within the area of the issuing local authority. This licence does not permit the holder to operate a scrap metal site, nor does it allow the collection outside of the area of the issuing authority. If a person collects scrap from more than one local authority area, a collector's licence will be required from each local authority he/she collects scrap within.

A scrap metal dealer may not hold more than **ONE** licence issued by any one local authority.

3.3 A site under the Act is defined as 'any premises used in the course of carrying on a business as a scrap metal dealer, (whether or not metal is kept there)'. This means a

dealer will require a site licence for an office, even if they do not operate a metal store or yard from those premises.

- 3.4 Holding a site or collector's licence does not exempt the licensee from requiring any other licence or permit to operate a scrap metal business. For example, a waste carrier registration issued by the Environment Agency.

4. Suitability of Applicant

- 4.1 The Council must determine if an applicant is a suitable person to carry on business as a scrap metal dealer.

- 4.2 The Council must have regard to any information which it considers to be relevant, this may include:

- a) Whether the applicant or site manager has been convicted of any relevant offence; or
- b) Whether the applicant or site manager has been the subject of any relevant enforcement action; or
- c) Whether there has been any refusal of an application for the issue or renewal of a scrap metal licence, and the reasons for the refusal; or
- d) Whether there has been any refusal of an application for a relevant environmental permit or registration, and the reasons for the refusal; or
- e) If there has been any previous revocation of a scrap metal licence, and the reasons for the revocation; or
- f) Whether the applicant has demonstrated there will be adequate procedures in place to ensure compliance with the Act.

- 4.3 When establishing the applicant's suitability, the Council may consult with other persons, including in particular:

- a) West Mercia Police;
- b) The Environment Agency;
- c) Environmental Health;
- d) Trading Standards;
- e) The Council's Development Control Team
- f) Any other Licensing Authority

- 4.4 Relevant offences or relevant enforcement action are those listed under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

5. Supply of Information by Authority

- 5.1 Information supplied to the Authority in relation to an application for, or relating to a scrap metal licence must be provided when requested relating to a licence to:
- a) any other local authority;
 - b) the Environment Agency; or
 - c) an officer of the police force.

This does not limit any other powers and duties the Council has to supply that information.

6. Register of Licences

- 6.1 The Environment Agency will maintain a register of scrap metal licences issued by all local authorities in England. The register will include the following information:
- a) name of the authority which issued the licence;
 - b) the name of the licensee;
 - c) any trading name of the licensee;
 - d) the address of the site identified on the licence;
 - e) the type of licence, and
 - f) the date of expiry of the licence.

The register will be open for inspection by members of the public.

- 6.2 The Council are required to update the register on a regular basis. The Council will also check the accuracy of the information held on the Environment Agency register on a regular basis and highlight any inaccuracies.

7. Display of Licence

- 7.1 Once granted, a copy of the licence must be displayed at each site identified on the licence, in a prominent place accessible to members of the public.
- 7.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of a dealer's business. It must be displayed in a prominent position so that it can easily be read from outside the vehicle.

8. Verification of Supplier's Identity

- 8.1 Before receiving scrap metal, the dealer must verify a person's full name and address, by reference to documents, data or other information obtained from a reliable and independent source.

- 8.2 If suitable verification is not obtained the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for verifying the name and address, shall be guilty of an offence.
- 8.3 It should be noted that whilst Statutory Instrument 2276 of 2013 sets out documents that are sufficient to verify the identity of a person from whom scrap metal is received, the list is not exclusive and a court may consider other documents to be satisfactory.

9. Payment for Scrap Metal

- 9.1 A scrap metal dealer must only pay for scrap metal by either;
- a) a cheque (which is not transferrable under Section 81A of the Bills of Exchange Act 1882); or
 - b) electronic transfer of funds (authorised by a credit, debit card or otherwise).

Payment includes paying in kind with goods and services.

10. Records

- 10.1 The scrap metal dealer must keep two types of records:
- a) receipt of Metal
 - b) disposal of Metal

10.2 Receipt of Metal

If metal is received in the course of the dealer's business, the following must be recorded:

- a) description of the metal, including its type (types if mixed) form, condition, weight and any marks identifying previous owners or other distinguishing features;
 - b) date and time of receipt;
 - c) the registration mark of the vehicle it was delivered by;
 - d) full name and address of the person delivering it, and
 - e) full name of the person making payment on behalf of the dealer.
- 10.3 The dealer must keep a copy of the documents used to verify the delivery person's name and address.
- 10.4 If payment is by cheque a copy of the cheque must be retained.
- 10.5 If payment is by electronic transfer a receipt identifying the transfer must be retained, or the details of the transfer.

10.6 Disposal of Metal

10.7 Disposal under the Act covers metal:

- a) whether or not it is in the same form as when it was purchased;
- b) whether or not it is to another person; or
- c) whether or not it is despatched from a site.

10.8 Disposal records must be recorded, including:

- a) description of the metal, including type (types if mixed), form, weight
- b) date and time of disposal;
- c) if to another person, their full name and address, and;
- d) if payment is received for the metal (sale or exchange) the price or other consideration received.

10.9 If disposal is in the course of business conducted under a collector's licence, the dealer must record:

- a) date and time of disposal, and;
- b) if to another person, their full name and address.

10.10 Supplementary

10.11 The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easily identified.

10.12 The records of receipt must be marked so as to identify the metal to which they relate.

10.13 Records must be kept for a period of 3 years beginning on the day of receipt, or disposal (as may be).

10.14 If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records, shall be guilty of an offence.

10.15 A dealer or site manager may have a defence if they can prove arrangements had been made to ensure the requirement to keep records was fulfilled, or that they took all reasonable steps to ensure those arrangements were complied with.

11. Right of Entry & Inspection

11.1 An authorised officer of the Council may enter a licensed site at any reasonable time, with or without notice to the site manager.

11.2 Entry and inspection without notice would occur, if:

- a) reasonable attempts to give notice had been given and had failed, or
 - b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of the Act are being complied with or investigating an offence under it, and, in either case, the giving of the notice would defeat that purpose.
- 11.3 Paragraphs 11.1 and 11.2 do not apply to residential premises.
- 11.4 An authorised officer of the Council is not entitled to use force to enter a premises, but may ask a justice of the peace to issue a warrant authorising entry, if they are satisfied there are reasonable grounds for entry to the premises is reasonably required for the purpose of:
- a) securing compliance with the provisions of the Act, or
 - b) ascertaining whether those provisions are being complied with.
- 11.5 'Premises' under this section include:
- a) a licensed site, or
 - b) premises that are not licensed, but there are reasonable grounds for believing the premises are being used as a scrap metal dealing business.
- 11.6 An authorised officer of the Council may use reasonable force in the exercise of their powers under a warrant obtained under paragraph 11.4.
- 11.7 An authorised officer of the Council may:
- a) require the production of, and inspect, any scrap metal kept at an licensed premises, and
 - b) require production of, and inspect, any records kept in respect of receipt and disposal of metal, and
 - c) to take copies of or extracts from any such record
- 11.8 An authorised officer of the Council must produce evidence of their identity, and evidence of their authority to exercise these powers, if requested by the owner, occupier, or other person in charge of the premises.

12. Application Procedure

- 12.1 An application form, available from the Council's website or from the Council's Licensing Team must be completed, together with the correct fee and a current Basic Disclosure. A Basic Disclosure is a criminal record check that lists any unspent criminal convictions an applicant may have, and, can be applied for at www.disclosurescotland.co.uk
- 12.2 A Basic Disclosure will be valid for 3 months from the date of issue.
- 12.2 A licence once granted is valid for 3 years.

- 12.3 A renewal application must be received before the expiry of the current licence which will continue in effect until the application is determined. If the renewal application is withdrawn the licence expires on the date of expiry noted thereon or at the end of the day on which the application was withdrawn, whichever is later.
- 12.4 If a licence application is refused, the licence expires when no appeal is possible, or an appeal is determined or withdrawn.
- 12.5 A licence may be varied from one type to another, i.e. site licence to collector's licence.

A variation application must be made to reflect changes to:

- a) name of licensee, site manager, or sites on a site licence, or
- b) name of licensee on a collector's licence

A variation cannot be used to transfer the licence to another person, only to amend the name of a licensee.

An application to vary must be made to the issuing authority.

- 12.6 The Council may request additional information is provided for the consideration of the application.

Failure to provide such information may result in the application being refused.

- 12.7 The fee is set by the Council under guidance issued by the Home Office with the approval of the Treasury.
- 12.8 Fees are set after taking into account the cost of processing, administering and compliance costs associated with the licence. The Council is committed to reviewing fees on a regular basis.

- 12.9 If the Council proposes to refuse an application, or to revoke, or to vary a licence by imposing conditions, a notice must be issued to the licence holder setting out the council's proposals and the reasons for the decision. The notice will indicate the time period in which the applicant or licensee can either:
- a) Make representation about the proposal, or
 - b) Inform the Council that the applicant or licensee wishes to do so

This time period must not be less than 14 days beginning on the day the notice was given to the applicant or licensee.

- 12.10 If a notification is received that the applicant or licensee wishes to make representation, the Council will consider each case on its merits and allow for a reasonable period to make representations.

- 12.11 If the applicant or licensee does not make representation or notify the council that they wish to do so, within the time period specified in the notice, the Council may refuse, revoke or vary the licence.
- 12.12 If the applicant or licensee makes representations within the time period specified in the notice or within a time period considered reasonable by the Council, the Council must consider the representations.
- 12.13 If the applicant or licensee informs the Council that they wish to make oral representations, the Council must give them the opportunity of appearing before, and being heard by, the Licensing Sub-Committee.
- 12.14 If the Council refuse the application, or revokes or varies the licence within the time period specified in the notice it will give the applicant or licensee a notice setting out the decision and the reasons for it.

The notice will state:

- a) That the applicant or licensee may appeal against the decision
- b) The time within which such appeal may be brought, and
- c) In the case of a revocation or variation within the time period specified in the notice the date on which the revocation or variation is to take effect.

13. Appeals

- 13.1 An applicant may appeal to the magistrates' court against a refusal of an application or variation,

A licensee may appeal to the magistrates' court against the inclusion on the licence of a condition under Section 3(8) of the Act, or a revocation or variation of a licence under Section 4 of the Act.

The appeals procedure will be in accordance with the Magistrates Courts Act 1980, and must be lodged within 21 days of receipt of the decision notice.

On appeal the magistrates' court may confirm, vary or reverse the Authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

14. Revocation and Imposing Conditions

- 14.1 The Council may revoke a scrap metal licence if it is satisfied the licence holder does not carry on a scrap metal business at any of the sites named on the licence.

- 14.2 The Council may revoke a scrap metal licence if it is satisfied the site manager named on the licence does not act as a site manager at any of the named sites on the licence.
- 14.3 The Council may revoke a scrap metal licence if it is no longer satisfied the licence holder is a suitable person to carry on the business.
- 14.4 If the licence holder, or site manager named on a licence is convicted of a relevant offence, the authority may impose one or both of the following conditions:
- a) the dealer must not receive scrap metal except between 9am and 5pm on any day;
 - b) all scrap metal received must be kept in the form in which it was received for a specified period, not exceeding 72 hours, beginning with the time when it was received.

Relevant offences are those listed under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

- 14.5 A revocation or variation only comes into effect when no appeal under the Act is possible, or when such appeal has been determined or withdrawn.
- 14.6 If the Council considers the licence should not continue without the addition of one or more of the conditions in paragraph 14.4 the licence holder will be given notice:
- a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions, or
 - b) that a variation comes into immediate effect

15. Closure of Unlicensed Sites

- 15.1 If an authorised officer of the Council is satisfied premises are being used by a scrap metal dealer in the course of their business and the premises are unlicensed, they may issue a closure notice.

A copy of the notice must be given to:

- a) a person who appears to be the site manager, and
- b) any person who appears to be a director, manager, or other officer of the business

A copy may also be given to any person who has an interest in the business, a person who occupies part of the premises, or where the closure may impede a person's access to that other part of the business.

- 15.2 After a period of 7 days, the Council's authorised officer may apply to a justice of the peace for a Closure Order.

The court must be satisfied the premises will continue to be used by a scrap metal dealer, or there is a reasonable likelihood that the premises will be.

A Closure Order may close the premises immediately, and the premises will remain closed to the public until the Council makes a termination of closure order by certificate. The scrap metal dealer must cease his business immediately. They may also be required to pay a sum into the court, which will not be released until they have complied with the requirements of the order.

Such an Order may have a condition relating to the admission of people into the premises, or may include any other provision the court considers appropriate.

A copy of the Order must be placed on the premises in a prominent position by the Council.

- 15.3 Once the requirements of the Order have been complied with and the Council is satisfied the need for the Order has ceased, a Certificate may be given. The effect of giving a Certificate is that it ceases the Order and the sum of money paid into the court is released.

A copy of the Certificate must be given to any person the closure order was made against, a copy must be given to the court and a copy must be placed on the premises.

A copy of the Certificate must also be given to anyone who requests one.

- 15.4 Anyone issued with a Closure Order may complain to a justice of the peace. The court may discharge the Order, if it is satisfied there is no longer a need for it.

The Licensing Authority may be required by the court to attend and answer the complaint made.

Notice of the hearing must be given to all people issued with the Closure Order.

- 15.5 Appeals may be made to the Crown Court against:

- a) a closure order;
- b) a decision not to make a closure order;
- c) a discharge order; or
- d) a decision not to make a discharge order

An appeal must be lodged within 21 days beginning on the day on which the order or decision was made.

Appeals against a) and b) may be made by any person who was issued with a Closure Order.

Appeals against c) and d) may be made by the Licensing Authority.

- 15.6 A person is guilty of an offence, if they allow the premises to be open in contravention of a Closure Order, without reasonable excuse, or fail to comply with, or contravene a Closure Order.
- 15.7 An authorised officer of the Council may enter the premises at any reasonable time to ensure compliance with the Closure Order. They may use reasonable force if necessary.
- 15.8 An authorised officer of the Council must produce evidence of their identity or evidence of their authority to exercise the powers under the Act, if requested to do so.

16. Delegation of Functions

- 16.1 Where there are uncontested applications, or where there are no questions about the suitability of the applicant the determination should be dealt with by officers under delegated powers.
- 16.2 Contested applications where there is relevant information from any of the consultees, or queries regarding an applicant's suitability, or involving the revocation of a licence or the imposition of conditions, will be determined by the Council's Licensing Sub-Committee.
- 16.3 Table 1 below outlines the Delegation of Functions

Table 1. Delegation of Functions			
Matter to be dealt with	Full Committee	Sub Committee	Officers
To determine fees for Scrap Metal Dealers licence applications	All Cases		
To determine and approve policy for the implementation and delivery of the Scrap Metal Dealers Act 2013	All Cases		
New or Renewal Applications		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Variation of licence by the imposition of conditions following		All Cases	

licence holder or site manger being convicted of relevant offence			
Revocation of licence		All Cases	
Variation of licence under Schedule 1, Section 3			All non-contentious cases

17. Enforcement

- 17.1 In order to ensure compliance with the legislation and any conditions imposed, licences will be inspected using a risk-based approach. This will allow resources to be more effectively targeted on high-risk or problematic licence holders and prevent over burdensome enforcement on compliant and well managed licences.
- 17.2 Appropriate enforcement action will be taken in accordance with the legislation and any guidance issued under that legislation, the Council's Enforcement Policy, the Governments Enforcement Concordat and any other enforcement protocols that may be agreed with other agencies.

18. Offences & Penalties

- 18.1 The following paragraphs are only indicative of the general offences and penalties. Independent legal advice should be sought for individual cases.
- 18.2 Offences relating to scrap metal dealing are described under the relevant piece of legislation.
- 18.2 Table of Offences – Scrap Metal Dealers Act 2013

Section	Offence	Maximum Penalty
1	Carrying on business as a scrap metal dealer without a licence	Level 5
8	Failure to notify the authority of any changes to details given with the application	Level 3

10	Failure to display site licence or collector's licence	Level 3
11 (6)	Receiving scrap metal without verifying persons full name and address	Level 3
11 (7)	Delivering scrap metal to dealer and giving false details	Level 3
12 (6)	Buying scrap metal for cash	Level 5
13	Failure to keep records regarding receipt of metal	Level 5
14	Failure to keep records regarding disposal of metal	Level 5
15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	Level 5
15 (2)	Failure to keep copy document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

18.4 Current levels of fines:

- Level 1 - £200
- Level 2 - £500
- Level 3 - £1,000
- Level 4 - £2,500
- Level 5- £5,000

18.5 Offences by Bodies Corporate

Where an offence under the Act is committed by a body corporate and is proved:

- a) to have been committed with the consent or connivance of a director, manager, secretary or similar officer, or
- b) to be attributable to any neglect on the part of any such individual

the individual as well as the body corporate is guilty of the offence and liable to be prosecuted against and punished accordingly.

Where the affairs of the body corporate are managed by its members, any acts or omissions committed by that member will be treated as though that member were a director of the body corporate.

LICENSING COMMITTEE2nd March 2015**DRAFT SEX ESTABLISHMENT LICENSING POLICY**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ivor Pumfrey – Acting Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Redditch Borough Council does not currently have an adopted Policy on the licensing of Sex Establishments and the Licensing Committee is asked to consider a draft Policy and approve it for the purposes of consultation with relevant stakeholders and the general public.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

To approve the draft Sex Establishment Licensing Policy (attached at Appendix 1) for the purpose of consultation with relevant stakeholders and the general public.

3. KEY ISSUES**Financial Implications**

- 3.1 The costs involved in carrying out the consultation will be met by existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) as amended allows local authorities to adopt provisions concerning the regulation of sex establishments. Under the Act there is no legal requirement for the Council to adopt a policy on how it proposes to license sex establishments under the Act. However, it is considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions are carried out.

LICENSING COMMITTEE2nd March 2015

Service / Operational Implications

- 3.3 The Council does not currently have an adopted Policy on the licensing of Sex Establishments and the Licensing Committee is asked to consider a draft Policy and approve it for the purposes of consultation with relevant stakeholders and the general public.
- 3.4 The Local Government (Miscellaneous Provisions) Act 1982, when originally enacted, allowed for the licensing of Sex Establishments (i.e. sex shops and sex cinemas) by those local authorities, like Redditch Borough Council, that adopted Schedule 3 of the Act.
- 3.5 The Council resolved to adopt the original provisions at a meeting on 25th October 1982.
- 3.6 On 9th August 2010 the Council resolved to adopt the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which were amended by virtue of Section 27 of the Policing and Crime Act 2009.
- 3.7 The adoption of the provisions as amended by the Policing and Crime Act 2009 meant that “sexual entertainment venues” in the Borough are subject to the same licensing requirements as sex shops and sex cinemas.
- 3.8 The new controls strengthened the role that local communities can play in deciding whether, for example, a lap dancing premises is appropriate for the locality. The adoption of the amended provisions brought lap dancing and other similar premises in line with other sex establishments such as sex shops and sex cinemas and recognised that local people have legitimate concerns about where such premises are located.
- 3.9 Despite having adopted controls over sex establishments, the Council does not currently have an adopted Policy on the licensing of sex establishments under the Local Government (Miscellaneous Provisions) Act 1982.
- 3.10 Members of the Licensing Committee are asked to consider a draft Policy and approve it for the purposes of consultation with relevant stakeholders and the general public.
- 3.11 A draft Sex Establishment Licensing Policy is attached at Appendix A. The draft Policy sets out how Redditch Borough Council would approach its licensing functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

LICENSING COMMITTEE2nd March 2015

- 3.12 It will provide guidance to Members and Officers when considering applications and will inform potential applicants, relevant stakeholders and the general public of the principles which will be applied by the Council when carrying out its licensing functions.
- 3.13 The draft Sex Establishment Licensing Policy would be subject to consultation with relevant stakeholders and the general public.
- 3.14 Following consultation the Licensing Committee would consider the responses received and approve a finalised Policy

4. RISK MANAGEMENT

- 4.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal. Consultation with relevant stakeholders will minimise the risk of challenge.

5. APPENDICES

Appendix 1 – Draft Sex Establishment Licensing Policy

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
Worcestershire Regulatory Services

E Mail: d.etheridge@worcsregservices.gov.uk

Tel: (01527) 534121



Sex Establishment Licensing Policy

FOREWORD

Redditch Borough is within the County of Worcestershire and borders Warwickshire County to the east and southeast. It is surrounded by Bromsgrove District to the west and north, Stratford District to the east and southeast and Wychavon District to the southwest.

The Borough is situated at the outer edge of the Green Belt boundary for the West Midlands. Redditch offers easy access to the countryside and prominent local areas, including culturally rich areas such as Stratford upon Avon and naturally rich areas such as the Cotswolds.

The Borough lies 15 miles south of the Birmingham conurbation and Birmingham airport is approximately a 25 minute drive away.

Redditch Borough consists of the main town of Redditch, the villages of Astwood Bank and Feckenham and several other hamlets. It covers an area of 5,435 hectares (13,430 acres) with a population of 84,214 (2011 Census).

The Borough is split into the urban area of Redditch in the north, accounting for 50% of the area and 93% of the population; and the rural area to the south with 7% of the population. The rural area consists predominantly of Green Belt land, but also open countryside, as well as the villages of Astwood Bank and Feckenham.

Through considering what really matters to our residents we have produced a set of six strategic purposes, which are:

- Keep my place safe and looking good
- Help me run a successful business
- Provide good things for me to see, do and visit
- Help me to be financially independent (including education & skills)
- Help me to live my life independently (including health & activity)
- Help me find somewhere to live in my locality

This policy statement aims to support the Council in working to these strategic purposes.

CONTENTS

SECTION	Page Number
1 Introduction	3
2 Licence Applications	5
3 Determination of Applications	8
4 Power to Prescribe Standard Conditions	11
5 Hearings	12
6 Operation and Management	13
7 Enforcement	14
8 Revocation of Licences	15
9 Amendments to Policy	16
 ANNEXES	
A Key Definitions	17
B Form of Public Notice	20
C Table of Delegated Functions	21
D Standard Conditions (Shops and Cinemas)	22
E Standard Conditions (Sexual Entertainment Venues)	27
F Hearings Procedure	30

1. INTRODUCTION

1.1 The Policy

1.1.1 This document states Redditch Borough Council's policy on the regulation of sex establishments.

1.1.2 This Policy was consulted upon between DATE and DATE and approved on DATE.

1.1.3 Consultation was carried out with local residents, relevant trade organisations, the Chief Officer of Police and other relevant organisations.

1.1.4 In developing this Policy Statement, we took into account the legal requirements of the 1982 Act and our duties under:-

- (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
- (b) The Regulators Compliance Code (set out under the legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- (c) The Provisions of Services Regulations 2009 to ensure requirements are:
 - (i) Non-discriminatory
 - (ii) Justified by an overriding reason relating to the public interest
 - (iii) Proportionate to that public interest objective
 - (iv) Clear and unambiguous
 - (v) Objective
 - (vi) Made public in advance, and
 - (vii) Transparent and accessible.

1.1.5 This Policy should be read in conjunction with, and without prejudice to, other existing National and European Union legislation, such as the Human Rights Act 1998 and the Disability Discrimination Act 1995.

1.2 The Law

1.2.1 The Local Government (Miscellaneous Provisions) Act 1982 introduced a licensing regime to control "sex establishments". Redditch Borough Council adopted Schedule 3 on 25th October 1982. This meant that the Council controlled and regulated the operation of "sex shops" and "sex cinemas" within the district from this date.

1.2.2 The Local Government (Miscellaneous Provisions) Act 1982 was amended by the Policing and Crime Act 2009 to extend the licensing regime to include "sexual entertainment venues" within the definition of sex establishments. Redditch Borough Council adopted the amended provisions of Schedule 3 on 9th August 2010. This meant that the Council now controls and regulates all types of sex establishment – sex shops, sex cinemas and sexual entertainment venues.

- 1.2.3 A list of definitions of the key terms used throughout the legislation and this Policy can be found at **Annex A** to this Policy.
- 1.2.4 No sex establishment can operate unless it has obtained a licence from the Council – any such licence will contain conditions that will restrict how that premises may trade.
- 1.2.5 The Council does not take any moral stand in adopting this Policy. The Council recognises that Parliament has made it lawful to operate Sex Establishments, and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

DRAFT

2. LICENCE APPLICATIONS

2.1 Right to Waiver

- 2.1.1 Redditch Borough Council may, upon application, waive the requirement for a licence in any case where it considers that to require a licence would be unreasonable or inappropriate.
- 2.1.2 Each application for a waiver will be considered on its own merits, however, any establishment that would normally require licensing under the provisions of the Act is unlikely to be granted a waiver other than in exceptional circumstances.
- 2.1.3 A waiver may be for such period as the Council think fit. Where the Council grant an application for a waiver, it will give the applicant for the waiver notice that they have granted the application.
- 2.1.4 The Council may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

2.2 Application Details

- 2.2.1 The applicant will be required to make their application in accordance with Clause 10, Schedule 3, of the Act.
- 2.2.2 To apply for the grant of a new sex establishment licence, an applicant must submit:-
- A completed application form;
 - A plan to the scale of 1:100 of the premises to which the application relates showing (inter alia) all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street.
 - A site plan scale 1:1250.
 - Drawings showing the front elevation as existing and as proposed to a scale of (1:50).
- 2.2.3 All applications must be accompanied by the relevant fee. In the event of an application being refused, the application fee may be refunded less an appropriate charge for the administrative process undertaken in determining the application, including any hearing before the Licensing Committee.
- ### **2.3 Consultation Arrangements - Public**
- 2.3.1 The applicant must advertise any application for grant of a new licence or renewal, transfer or variation of an existing licence in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

2.3.2 This states that:-

- An applicant for the grant, renewal or transfer of a licence shall give public notice of the application.
- Notice shall in all cases be given by publishing an advertisement in a local newspaper circulating in the appropriate authority's area
- The publication shall not be later than 7 days after the date of the application.
- Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.
- Every notice which relates to premises shall identify the premises
- Every such notice which relates to a vehicle, vessel or stall shall specify where it is to be used as a sex establishment.
- A notice shall be in such form as the appropriate authority may prescribe. (The form prescribed by Redditch Borough Council for such notices is shown at **Annex B** to this Policy)

2.4 **Consultation Arrangements – Relevant Bodies**

2.4.1 The Council will also notify all applications for grant, renewal, transfer or variation of a licence to the following bodies who may comment on or object to the application within 28 days of the date of the application:-

- Chief Officer of Police
- Local Safeguarding Children Board
- Fire Safety Officer
- Trading Standards
- Planning Authority
- Any relevant Parish Council
- Relevant Redditch Borough Council Ward Members

2.5 **Objections**

2.5.1 When considering an application for the grant, renewal, variation or transfer of a Sex Establishment Licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.

2.5.2 Any person can object to an application but the objection should be relevant either to the **mandatory grounds** for refusal set in **Section 3.3** or to the **discretionary grounds for refusal** set out in **section 3.4** below.

2.5.3 Objections should not be made on moral grounds or values. Any decision to refuse a licence will be relevant to one or more of the grounds in **3.3 and 3.4** below.

2.5.4 Objectors must give notice of their objection in writing, stating the general terms of the objections.

2.5.5 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.

2.6 Variation of a Licence

2.6.1 The holder of a Sex Establishment Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

2.6.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

2.7 Renewal of a Licence

2.7.1 The holder of a Sex Establishment Licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.

2.7.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

2.8 Transfer of a Licence

2.8.1 A person may apply for the transfer of a licence at any time.

2.8.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

3. DETERMINATION OF APPLICATIONS

3.1 Decision Making – Delegation of Functions

3.1.1 Decisions relating to Sex Establishment licensing will be delegated in accordance with the table of delegated functions shown at **Annex C**.

3.2 General Principles

3.2.1 In determining an application relating to a sex establishment licence the Council will assess the application on its merits having regard to the content of this Policy, the relevant legislation and any relevant guidance that may be issued from time to time.

3.2.2 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing Committee may authorise a departure from the policy if it feels it appropriate for a specific application.

3.2.3 In determining an application for the grant, renewal, transfer or variation of a licence, the Council will have regard to any representations that it has received that are relevant to the grounds set out in **3.3 and 3.4**.

3.2.4 The Council will consider granting licences of 12 months duration or for a shorter term if deemed appropriate.

3.3 Mandatory Refusal of Applications

3.3.1 A licence under the Act cannot be granted —

- to a person under the age of 18; or
- to a person who is for the time being disqualified having had a licence revoked in the past 12 months; or
- to a person, other than a body corporate, who is not resident in an European Economic Area state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- to a body corporate which is not incorporated in an European Economic Area state; or
- to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.4 Discretionary Refusal of Applications

3.4.1 The Council may refuse an application for grant or renewal of a licence on one or more of the grounds specified below:-

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, 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 licence if he made the application himself;
- (c) 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 (nil may be an appropriate number);
- (d) that the grant or renewal of the licence would be inappropriate, having regard—
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.4.2 The Council may refuse an application for the transfer of a licence on either or both of the grounds specified below:-

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, 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 licence if he made the application himself;

3.5 Applicant Suitability

3.5.1 In determining applicant suitability for the grant of a new licence, renewal of a licence, or the transfer of an existing licence, the Council will take the following into account:

- Previous relevant knowledge and experience of the applicant;
- Any evidence of the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other District or Borough;
- Any report about the applicant and management of the Premises received from objectors.

3.5.2 In particular the Council will liaise closely with the Police and any other relevant appropriate agencies in determining the fitness of the applicant.

- 3.5.3 Whilst every application will be considered on its merits, the Council will be unlikely to grant an application from any person, or for the benefit of any person, with unspent relevant criminal convictions.

3.6 Location of the Premises

- 3.6.1 In accordance with relevant case law, the Council shall decide on the suitability of a particular locality for a sex establishment as a matter of fact to be determined by the particular circumstances of each case and not by the prescription of boundaries as stated on a map.

- 3.6.2 The Council is mindful of its power to determine that no sex establishments should be located in a particular locality.

- 3.6.2 In determining whether the proposed location of a sex establishment is appropriate, the Council will have regard to all of the relevant circumstances including the following:-

- The general character of the relevant locality
- The proximity of residential premises
- The proximity of any places of public religious worship
- The proximity of any schools or other educational establishments
- The proximity of any playing fields and play areas
- The proximity of any leisure centres or swimming pools
- The proximity of any libraries or other public buildings
- The proximity of any youth clubs
- The proximity of any other licensed sex establishments
- The proximity of any premises authorised under the Licensing Act 2003 for the sale or supply of alcohol for consumption on the premises.

3.7 Renewal Applications

- 3.7.1 When considering an application for renewal of a sex establishment licence the Council will have due regard to how long the premises have existed and been licensed.

4. POWER TO PRESCRIBE STANDARD CONDITIONS

- 4.1 Schedule 3 Section 13 of the Act provides a power for the Council to specify Standard Conditions in relation to sex establishment licences.
- 4.2 The Council's Standard Conditions for sex shops and sex cinemas are detailed in **Annex D** of this Policy. The Council's Standard Conditions for sexual entertainment venues are detailed at **Annex E** of this Policy.
- 4.3 All licences will be granted, renewed, transferred or varied subject to these Standard Conditions unless expressly excluded, varied or added to by a Licensing Sub-Committee.

DRAFT

5. HEARINGS

- 5.1 Where the Council is required to determine an application by reference to a Licensing Sub-Committee, the applicant and objectors will be advised of the date, time and venue of the hearing.
- 5.3 Hearings will be carried out in accordance with the Council's agreed procedure for Licensing Hearings, which is shown at **Annex F**.
- 5.4 The Licensing Sub-Committee will normally communicate their decision at the end of the hearing and all parties will also receive written confirmation of the decision taken by the Licensing Sub-Committee.

DRAFT

6 OPERATION AND MANAGEMENT OF PREMISES

- 6.1.1 The Council requires all licensees to ensure that they and their employees comply with all relevant licence conditions and health and safety regulations.
- 6.1.2 In terms of the management of licensed Premises, the Council strongly encourages where possible and appropriate, that licensees:
- a) Work with statutory agencies such as the Police, and the Council in order to create and maintain a safe environment, both within licensed Premises and in the environs around them;
 - b) Particularly those licence holders whose Premises are located in areas with high levels of recorded crime, develop crime prevention strategies in consultation with the Police and the Council.
 - c) In terms of the management of licensed Premises, the Council strongly encourages and where possible and appropriate all licensees to develop strategies and procedures to increase access for disabled people to the Premises.
 - d) In terms of the employment of staff in licensed Premises, the Council requires that all relevant staff be appropriately trained in areas such as health and safety, first aid, and fire precautions.

7. ENFORCEMENT

7.1 General

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.
- 7.1.2 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Council's Corporate Enforcement Policy. This has been drafted with reference to the Statutory Regulator's Compliance Code.
- 7.1.3 The responsibility for the overall supervision of sex establishment licensing lies with the Head of Worcestershire Regulatory Services.

7.2 Offences

- 7.2.1 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that schedule and include:
- Knowingly causing or permitting the use of any premises as Sex Establishment without a licence;
 - Being the holder of a licence, knowingly employing a person in a Sex Establishment who is disqualified from holding a licence;
 - Being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
 - Being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
 - Being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 years to enter the establishment;
 - Being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.
- 7.2.2 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.
- 7.2.3 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale.

8. REVOCATION OF LICENCES

- 8.1 The Council may, after giving the holder of a licence an opportunity of appearing before and being heard by them, at any time revoke the licence on any of the following grounds:-
- (a) that one of the mandatory grounds for refusing to grant a licence exists and has come to light since the grant of the licence.
 - (b) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (c) 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 be refused the grant, renewal or transfer of such a licence if he made the application himself
- 8.2 The Council will consider whether or not to revoke a licence upon a request to do so from the Police or at the recommendation of the Head of Worcestershire Regulatory Services following representations from any other person or body.

9. AMENDMENTS TO THIS POLICY

- 9.1 Any significant amendment to this policy will only be implemented after further consultation with the trade and the public. All such amendments to this Policy will be undertaken in accordance with the Council's Constitution.
- 9.2 For the purpose of this section, any significant amendment is defined as one that:
- a) is likely to have a significant financial effect on licence holders, or
 - b) is likely to have a significant procedural effect on licence holders, or
 - c) is likely to have a significant effect on the community.

DRAFT

ANNEX A - KEY DEFINITIONS

TERM	DEFINITION
the Act	Local Government (Miscellaneous Provisions) Act 1982
Authorised Officer	any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
the Council	Redditch Borough Council
he, his	all references to 'he' or 'his' also include 'she' or 'hers'
Licence Holder	a person who holds a Sex Establishment Licence under the Act
this Policy	Redditch Borough Council's Sex Establishment Licensing Policy
Premises	A building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a Sex Establishment Licence granted under the Act
Sex Establishment	As defined in Schedule 3 of the Act (as amended) A sex establishment means a sex shop, sex cinema or sexual entertainment venue as defined below in extracts from the Act.
Sex Cinema	As defined in Schedule 3 of the Act (as amended) 3. — (1) In this Schedule, "sex cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which— (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage— (i) sexual activity; or (ii) acts of force or restraint which are associated with sexual activity; or (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted. (2) No premises shall be treated as a sex cinema by reason only— (a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (which the meaning of section 136 of that Act), of their use in accordance with that authorisation; or (b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of

the Cinemas Act 1985.

Sex Shop

As defined in Schedule 3 of the Act, as amended

4. —

(1) In this Schedule “sex shop” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating—

(a) sex articles; or

(b) other things intended for use in connection with, or for the purpose of stimulating or encouraging—

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity.

(2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

(3) In this Schedule “sex article” means—

(a) anything made for use in connection with, or for the purpose of stimulating or encouraging—

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity; and

(b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies—

(a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and

(b) to any recording of vision or sound, which—

(i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or

(ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sexual Entertainment
Venue

As defined in Schedule 3 of the Act (as amended)

2A

(1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

(2) In this paragraph “relevant entertainment” means—

(a) any live performance; or

(b) 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) The following are not sexual entertainment venues for the purposes of this Schedule—

- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

“audience” includes an audience of one;

“display of nudity” means—

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

- (a) the relevant entertainment; or
- (b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

ANNEX B - FORM OF PUBLIC NOTICE**Local Government (Miscellaneous Provisions) Act 1982****Schedule 3****NOTICE OF APPLICATION FOR GRANT / RENEWAL/ VARIATION / TRANSFER
OF A SEX ESTABLISHMENT LICENCE**

Name/s of Applicant/s	
Postal address of premises including name of the premises and post code (where possible) or a description to enable the location to be identified.	
Summary of application (hours of trading, type of licence, etc):	
<p>NOTICE IS HEREBY GIVEN that an application has been made to Redditch Borough Council for a licence to use the above premises as a sex establishment.</p> <p>Copies of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a licence) and of the application may be inspected at the Town Hall, Walter Stranz Square, Redditch, Worcestershire, B97 9SB between 9.00 am and 5.00 pm (Monday to Friday except public holidays).</p> <p>Any objections in respect of the above application must be made in writing to the council at the above address by</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(28 days after the date of the application)</p> <p>It is an offence knowingly or recklessly to make a false statement in connection with an application punishable on summary conviction by a maximum fine of £5,000.</p>	

ANNEX C - TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee	Officers
Approval of any sex establishment licensing policy	All cases		
Setting of all fees in relation to sex establishment licences	All cases		
Application for a new sex establishment licence		In all cases	
Application for variation of a sex establishment licence		In all cases	
Application for transfer of a sex establishment licence		Where objections are received	In all other cases
Application for renewal of a sex establishment licence		Where objections are received	In all other cases
Application for waiver from the requirement for a licence		In all cases	
Consideration of the revocation of a sex establishment licence		In all cases	

ANNEX D**STANDARD CONDITIONS****APPLICABLE TO LICENCES FOR SEX SHOPS AND SEX CINEMAS****Definition**

1. In these conditions save when the context otherwise requires the following expressions shall have the following meanings:-
 - (i) "Sex Establishment" "Sex Cinema" "Sex Shop" and "Sex Article" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
 - (ii) "Premises" means a building or part of a building and any forecourt, yard or place of storage used in connection with a building, or part of a building which is the subject of a Licence for a Sex Establishment granted under the said Third Schedule.
 - (iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
 - (iv) "Approved" means approved by the Council in writing.
 - (v) "The Council" means Redditch Borough Council.
 - (vi) "Film" shall have the meaning ascribed to it in the Films Acts 1960 – 1980.

General

2. In the event of a conflict between these Regulations and any special conditions contained in a Licence relating to a Sex Establishment the special conditions shall prevail.
3. The grant of a Licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
4. The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof.

Hours of opening

5. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public before 9.30 a.m. and shall not be kept open after 6.00 p.m. on Mondays to Saturdays inclusive (Fridays to 8.00 p.m.).
6. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public on Sundays or any Bank Holidays or any public holidays.

Conduct and Management of Sex Establishments

7. Where the Licensee is a body corporate or an unincorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
8. The Licensee, or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence and of whom details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the Premises during the whole time they are open to the public.
9. The name of the person responsible for the management of a Sex Establishment shall be the Licensee or a Manager approved by the Council and shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.
10. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his absence, and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within thirty minutes of the Sex Establishment opening for business and is to be available for inspection by the Police and by authorised Officers of the Council.
11. The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.
12. The Licensee shall maintain good order in the Premises.
13. No person under the age of 18 shall be admitted to the Premises or employed in the business of a Sex Establishment.
14. The Licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been approved by the Council.
15. No part of the Premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling.
16. Neither the Licensee nor any employee or to the person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the Premises.
17. The Licensee shall comply with all statutory provisions and any regulations made thereunder.
18. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council, indicating his name and that he is an employee.
19. The copy of the Licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the Licence required to be

displayed as aforesaid shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition.

Use

20. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
21. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
22. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.
23. Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

Goods Available in Sex Establishments

24. All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
25. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.
26. No film or video film shall be exhibited sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
27. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling in matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

External Appearance

28. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:-
 - (i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the Premises by law, or by any condition of a Licence granted by the Council.

- (ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
29. The entrances to the Premises shall be of a material or covered with a material which will render the interior of the Premises invisible to passers by.
30. Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This regulation shall not be construed as lessening the obligation of the Licensee under Regulation 28 hereof.

State Condition and Layout of the Premises

31. The Premises shall be maintained in a good repair and condition.
32. Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
33. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-
- (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".
 - (ii) Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "private".
 - (iii) Save in the case of an emergency no access shall be permitted through the Premises to any unlicensed premises adjoining or adjacent.
34. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
35. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.
36. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
37. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting, or layout of the Premises shall not be made except with the prior approval of the Council.
38. All parts of the Premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

Safety

39. The Licensee shall take all reasonable precautions for the safety of the public and employees.
40. The Licensee shall comply with any fire prevention and safety measures that may be required of him by the Council.
41. The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

ANNEX E**STANDARD CONDITIONS****APPLICABLE TO LICENCES FOR SEXUAL ENTERTAINMENT VENUES****General**

1. Only activities which have previously been agreed in writing by the Licensing Authority shall take place
2. The agreed activities shall take place only in designated areas approved by the Licensing Authority
3. Dressing rooms will be provided for entertainers and access to these will be restricted by management in accordance with approved arrangements – before, during and after the entertainment
4. The entertainment will be provided only by the entertainers and no members of the audience shall be permitted to participate
5. No audience participation shall be permitted
6. There must not be any contact by the performer with the patron immediately before, during and immediately after the performance of striptease except:
 - (a) the leading of a patron hand in hand to and from a chair or to and from a designated dance area
 - (b) the simple handshake greeting
 - (c) the placing of monetary notes or dance vouchers into the hand or garter worn by the performer
 - (d) the customary kiss on the cheek of the patron by the dancer at the conclusion of the performance
 - (e) if the contact is accidental
7. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden
8. Entertainers or performers not performing must not be in a licensed area in a state of undress
9. A clear notice shall be displayed at each entrance to the premises or to the licensed area in a prominent position stating “No persons under the age of 18 years will be admitted.
10. No entertainers under the age of eighteen shall take part in the entertainment, and an adequate record must be maintained of the names, addresses and dates of birth of all performers including adequate identity checks
11. No person under the age of eighteen will be allowed on the premises where the entertainment is taking place

12. The entertainment shall under no circumstances be visible to members of the public from outside the premises
13. Any external advertising at the premises shall be in a form acceptable to the Council
14. The licensee or a nominated manager shall be present on the premises at all times whilst the entertainment is taking place
15. A nominated person shall be present to oversee the activities of performers
16. A register shall be maintained and kept on the premises and be available for inspection at any time by police or officers of the Licensing Authority at all times, to clearly record the identity of the licensee(s) on duty, the day and times of start and finish of the duty, and the record shall be retained for a period of not less than 12 months after the last entry in the register

CCTV

17. A CCTV system shall cover all areas where dancing will take place including any dancing booths provided. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days with time and date stamping.
18. Tape recordings shall be made available to an authorised council officer or a police officer together with facilities for viewing
19. 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

Door supervisors

20. Whilst dancing takes place at least two trained door supervisors shall be employed in those parts of the premises used for dancing, unless otherwise agreed by the Licensing Authority and the Police
21. Any individual employed on the Premises to conduct a security activity (within the meaning of schedule 2 of the Private security Industry Authority) must be licensed by the Security Industry Authority

Club rules

22. A code of conduct for dancers shall be produced by the licensee together with a disciplinary procedure for breaches of the code which shall be implemented if approved in writing by the Council. The code of conduct for dancers shall prohibit activities that might be thought to lead to prostitution or other unlawful activities. No amendments shall be made to the code or disciplinary procedure without the prior written consent of the Council
23. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.

24. In relation to points 5 and 6 above, these procedures and rules must be produced for inspection by the Licensing Authority and the Police within 14 days of issue of the licence.

Admission of Authorised Officers

25. Officers of the Council, Police, and other agencies having authorisation (which will be produced on request) shall be admitted immediately to all parts of the premises at all reasonable times and at any time the premises are open for business.

DRAFT

ANNEX F – HEARINGS PROCEDURE**Licensing Sub-Committee**

Procedure at meetings

1. The Chairman will briefly explain the procedure to members of the public
2. The Licensing Officer will open the hearing with an outline of the relevant details of the application
3. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Committee
4. The Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Again opportunities to ask questions will be afforded to all of those present.
5. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
6. At the conclusion of the hearing, the stage at which the Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information, or clarification, all parties at the hearing must be invited to return.
7. When the Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence.

**LICENSING
COMMITTEE****2nd March 2015****LICENSING COMMITTEE WORK PROGRAMME 2014/15****2nd March 2015**

- Draft Scrap Metal Licensing Policy and Guidelines – Consultation responses
- Draft Sex Establishment Policy (Consultation Approval)

LICENSING COMMITTEE WORK PROGRAMME 2015/16**20th July 2015**

- Review of Statement of Gambling Principles (Consultation Approval)
- Draft Sex Establishment Policy (Consultation Results)

2nd November 2015

- Review of Statement of Gambling Principles (Consultation Results)

To Be Allocated To Suitable Available Dates

- Hackney Carriage and Private Hire Driver Licensing Policy Amendments (as a result of the Deregulation Bill)

