

**CHICHESTER DISTRICT COUNCIL**

**Sex Establishment Venues  
Statement of Policy 2016 – 2021**

**Under the Local Government (Miscellaneous  
Provisions) Act 1982  
As amended by  
Policing and Crime Act 2009**

**DRAFT  
VERSION  
(V5 09.02.16)**

# CHICHESTER DISTRICT COUNCIL

## Sexual Establishment Venues

### POLICY 2016 - 2021

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# **CHICHESTER DISTRICT COUNCIL**

## **SEXUAL ESTABLISHMENTS VENUES POLICY 2016 – 2021**

### **FOREWORD**

Chichester district is predominantly a rural area. It covers some 303 square miles and is the second largest district (in area) within Sussex. The Census conducted in 2011 reported a population of approximately 114,000 mainly concentrated in the cathedral city of Chichester, the towns of Midhurst, Petworth and Selsey together with the Parishes of Tangmere and Southbourne.

The district includes a significant area which forms part of the South Downs National Park ('SDNP'). The 'SDNP' came into being in 2010 and at the time of adopting this Policy is England's most recently created National Park. The South Downs National Park Authority (SDNPA) became fully operational in 1 April 2011 and is responsible for keeping the South Downs a special place.

This Licensing Authority recognises that the entertainment industry in this district is a major contributor to the local economy. It attracts tourists and visitors, makes for vibrant communities and is a major employer. Balanced against this the Authority is aware of and fully recognises the special and clearly defined role of the SDNPA.

The district also contains the Chichester Harbour Area of Outstanding Natural Beauty, one of the South coast's finest recreational areas as well as being an important natural habitat for birds, flora and fauna.

Presently in June 2015 there are in excess of 3,000 commercial premises of which approximately 1,500 are registered food premises, over 100 accommodation establishments, hotels and B&B's, and one of the largest caravan and campsites in Europe located in Selsey. There are many historic and cultural attractions in the region including Goodwood, with its renowned horse and motor-car racing, Fishbourne Roman Palace, the internationally recognised Chichester Festival Theatre, the Weald and Downland Museum and the award winning Pallant House Gallery.

Throughout the district there are approximately 600 premises operating by way of an authorisation granted under the Licensing Act 2003 i.e. either a Premises Licence or Club Premises Certificate.

The district currently has no premises licensed as a 'Sex Establishment'.

In adopting this Policy the Licensing Authority has set out the approach this Council will generally apply when making decisions on applications. It also sets out the information about the application process, what is expected of applicants and the types of controls that are available to the Council when decisions are made about licence applications. The Licensing Authority confirms that each application will be considered on its individual merits.

The Licensing Authority, in adopting this policy, recognises both the needs of residents and visitors for a safe and healthy environment in which to live, work and enjoy their recreation.

## 1. INTRODUCTION

1.1 This document sets out Chichester District Council's Policy (the 'Policy') concerning the regulation of and procedures relating to applications for;

- *Sexual Entertainment Venues*
- *Sex shops*, and
- *Sex cinemas*

Hereinafter, referred to as '*Sex Establishments*' as defined in the Local Government (Miscellaneous Provisions) Act 1982 amended by the Policing and Crime Act 2009.

1.2 Whilst every application will be determined on its individual merits the Policy is intended to be of benefit to applicants, operators and the community. It also aims to guide and re-assure communities and public authorities with regards to transparency and consistency in decision-making.

The objectives of this Policy are to –

- Enable applicants, licensees and Interested Parties to understand the principles that will be applied by this Licensing Authority when regulating such premises;
- To establish the general principles that will be applied by this Licensing Authority in its regulatory activities; and
- To assist in applying the national legislation within the local context i.e. within the wards making up the area of Chichester District Council.

1.3 The overriding objective of this Policy is to ensure that any premises licensed by this Council do not contribute directly or indirectly to crime, disorder or harm to individuals or groups within the community; whilst seeking also not to be unduly restrictive of the rights of persons seeking to operate well run premises in appropriate locations.

1.4 The role of the Council, in its position as Licensing Authority, is to administer the licensing regime in accordance with the law and not in accordance with any moral standpoint. The Council is however mindful of the possible concerns of the local community and potential conflict between applicants and objectors. This Policy will guide the Council when considering applications for licenses, seeking to balance the conflicting needs of commercial operators, patrons, employees, residents and communities.

1.5 A copy of the draft revised policy was made available for inspection at the Council Offices and a copy published on the Council's website prior to its adoption.

1.6 This Policy will take effect on 17 May 2016 and will remain in force for a period of five years. During this period it will be kept under review and, if appropriate, it may continue beyond this period subject to future legislative changes.

## 2. LOCAL CONTEXT

- 2.0 To control 'sex establishments' by way of licensing within the Chichester district, Chichester District Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 on 10 November 1982. This required anyone wishing to operate such a venue within the district obtaining a licence from the Council.
- 2.1 At the date of this policy Chichester district does not currently have any licensed sex shops or sex cinemas. The district also has no specific lap-dancing or striptease clubs and it is believed there are no licensed premises providing entertainment that would require a Sexual Entertainment Venue licence, for instance pubs and/or clubs where strippers, pole dancers or lap dancers etc perform.
- 2.2 On 6 April 2010 new measures came into force in England under Section 27 of the Policing and Crime Act 2009 ('2009 Act') that reclassified lap-dancing clubs, pole-dancing clubs and strip-shows and similar activities as Sexual Entertainment Venues.
- 2.3 The new legislation, provided Local Authorities re-adopted it, allowed them to regulate such venues under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27.
- 2.4 These powers were not mandatory and only applied where they are adopted by Local Authorities.
- 2.5 Chichester District Council resolved to re-adopt the amended provisions as a result of Section 27 on 1 March 2011 however as previously stated there are no premises within the district identified as falling within the definition of sex establishments at the date of this policy. However, the Council will contact any premises identified as holding activities of a sexual nature with a view to assessment.
- 2.6 Following the new provisions of the 2009 Act, the Authority has more power to control the number and location of lap dancing clubs and similar venues within its district. Should an application be received, the new provisions enable Licensing Authorities to take a broader range of considerations into account before making any decisions about licences. The powers also give local communities a greater influence over the regulation of lap dancing clubs and similar venues in their area.
- 2.7 There are a number of terms that are used in the Local Government (Miscellaneous Provisions) Act 1982, as amended, which have specific meaning as defined in the Act, or which are open to interpretation, and in which case this Policy seeks to set out the interpretation that will generally be applied by this Authority.

## 3. DEFINITIONS

- 3.1 **The Act** – this refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.
- 3.2 **The Policy** – refers to the Chichester District Council 'Sexual Establishment Venues Policy' which will be reviewed at least every five years. Its content will be revisited to incorporate statute and Guidance as appropriate.

3.3 **Sexual Entertainment Venues** – is any premises, vehicle, vessel or stall where any live performance or any live display of nudity is of such a nature that, regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience (one person can comprise an ‘audience’).

The category ‘Sexual Entertainment Venue’ includes the following forms of entertainment, as they are commonly understood:

- Lap-dancing;
- Pole-dancing;
- Table-dancing;
- Strip-shows;
- Peep-shows;
- Live-sex shows;

These entertainments are defined as ‘*relevant entertainment*’.

Premises, which provide ‘relevant entertainment’ on an infrequent basis, are exempt and are not required to be licensed as a Sexual Entertainment Venue. Exempted premises are defined as premises where –

- No relevant entertainment has been provided on more than 11 (eleven) occasions within a 12 month period;
- No such occasion has begun within a period of one month beginning with the end of the previous occasion;
- No such occasion has lasted longer than 24 hours.

Such premises will continue to be regulated under the Licensing Act 2003, solely in so far as they are providing ‘regulated entertainment’ under that Act. The Council will however carefully monitor the use of these exempt premises and take firm action should there be evidence of abuse.

In practice this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a Premises Licence or Club Premises Certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.

3.4 **The Organiser** – this is any person who is responsible for the organisation or management operation of the relevant entertainment on the premises.

3.5 **Display of nudity** – This means;

- In the case of a woman; exposure of her nipples, pubic area, genitals or anus; and
- In the case of a man; exposure of his pubic area, genitals or anus.

3.6 **Sex Shop** – a sex shop is 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
- (b) other things intended for use in connection with or for stimulating or encouraging: -
  - (i) sexual activity
  - (ii) acts of force or restraint which are associated with sexual activity.

3.7 **Sex Articles** – is anything for use in connection with or for stimulating or encouraging:

- (a) sexual activity
- (b) acts of force or restraint which are associated with sexual activity
- (c) anything –
  - (i) 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
  - (ii) to any recording of vision or sound, which
    - (a) 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
    - (b) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

3.8 **Sex Cinema** – is any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures however produced, which:

- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to or intending to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity
- (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.

3.9 **Relevant locality** – this is the locality where premises are situated or where the vehicle, vessel or stall is going to be used as a sex establishment. The locality and the area that this covers is a matter for the Authority to decide at the time it considers an application for the grant, renewal or transfer of a sex establishment licence.

3.10 **Permitted hours** – These are the hours of activity and operation that have been authorised under a sex establishment licence.

3.11 **Appropriate Authority** – Chichester District Council is the ‘Appropriate Authority’ for the purposes of the sex establishment licensing regime introduced by the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and adopted by the resolution of the Council on the 1 March 2011 taking effect from the 2 April 2011.

## **4. GENERAL PRINCIPLES OF THE POLICY**

- 4.1 This Policy has been prepared with due regard to the provisions of the Crime and Disorder Act 1998 in respect of the reduction of crime and disorder including anti-social behaviour and other behaviour that can, or is adversely affecting the relevant localities described below. This Authority will work closely with the Police and other partners/responsible authorities to achieve the objectives of the Act and those set out in this policy.
- 4.2 This policy should be read in conjunction with the relevant legislation and the Home Office Guidance (dated March 2010) which refers to case law in relation to not considering objections on moral grounds/values and in relation to whether or not an entire area can be deemed to be the 'relevant locality' when considering setting a limit on the appropriate number of sex establishments for that locality. These matters are considered in more detail later in this policy. The policy will continue to be reviewed in light of developing practices, Guidance and any further secondary legislation. Any significant future amendment will only be implemented after further consultation with the partner agencies and individuals originally consulted.
- 4.3 Any significant amendment is defined as one that:
- Is likely to have a significant financial effect of the licence holders; or
  - Is likely to have a significant procedural effect on the licence holders; or
  - Is likely to have a significant effect on the community
- 4.4 Any minor amendments may be authorised by the Head of Housing and Environment Services and undertaken in accordance with the Council's Constitution.
- 4.5 This policy does not in any way fetter the discretion of the decision makers appointed by this Authority, and each case will be taken on its individual merits. The main consideration when determining matters under this policy is whether to apply the policy as set out or whether there is good reason, having regard to all relevant matters and disregarding all irrelevant matters, to deviate from the policy if the individual facts warrant a different approach to be taken. Every decision will be approached with an open mind.
- 4.6 If this Authority receives an application for a sex establishment licence under the Act, it will consider whether to grant or refuse the application. Given the potentially sensitive nature of these applications, it is the policy of this Authority at this time that all such determinations shall be made by the Council's General Licensing Committee rather than through delegated powers.
- 4.7 Specific mandatory grounds for the refusal of a Licence are set out in the Act.
- 4.8 A Licence cannot be granted:
- a) to a person under 18 years of age;
  - b) to a person that has held a Licence that was revoked in the last 12 months (from the date of revocation) and who was disqualified from holding a Licence for that period:



- c) to a person who has been refused a new Licence or renewal of Licence within the last 12 months (from the date of making the application);
- d) to an individual who is not resident in the United Kingdom or who has not been resident for six months prior to the making of an application; or
- e) to a company not incorporated in the United Kingdom.

- 4.9 In determining an application for the grant, renewal or transfer of a Sex Establishment Licence the Licensing Authority will assess the application on its individual merits having regard to the content of this policy and any relevant legislation or Guidance.
- 4.10 The Local Authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. The Council shall normally take the following into account when determining whether an applicant is 'fit and proper':
- a) previous relevant knowledge and experience of the applicant and their managerial competence;
  - b) the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other area;
  - c) any report about the applicant and management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant;
- 4.11 The Authority may also refuse a Licence if the applicant is unsuitable to hold a Licence because they have been convicted of an offence or for any other reason. The determination of the suitability of the applicant is a matter for the Local Authority to decide at the time the application is made.
- 4.12 Whilst every application will be considered on its individual merits the Authority will be unlikely to grant an application from any person, or for the benefit of any person, with unspent convictions.
- 4.13 Applications for a Sex Establishment licence may be refused where the Authority is not satisfied that the application has been advertised in accordance with the requirements of the Act.
- 4.14 The Authority may refuse to accept an application where it considers that relevant information has been omitted or an application is incomplete.
- 4.15 Where the Authority refuses to grant, renew or transfer a licence a Notice of the reasons for that decision will be sent in writing to the applicant within seven days of that decision.
- 4.16 Were the Licence to be granted, renewed or transferred, the business to which it relates would be managed or carried on for the benefit of a person other than the applicant, who would have been refused a Licence if they had applied themselves. The determination of the business benefit is a matter for the Local Authority to decide at the time of application. Again each application will be considered on its own merits.

## 5. RELEVANT LOCALITY

- 5.1 The 'relevant locality' will be determined in accordance with where the premises are situated or where the vehicle, vessel or stall is going to be used. The area and extent of the 'relevant locality' is a matter of the Local Authority to decide at the time the application is made. Each application for the grant, renewal or transfer of a Sex Establishment Licence will be considered on its own merits on a case-by-case basis.
- 5.2 This Licensing Authority considers the 'relevant locality' to mean the area which surrounds the premises specified in the application; and in accordance with the legislation, does not seek to further define any precise boundaries or markings.
- 5.3 A decision to determine the number of Sex Establishments appropriate for this particular area has not been made, however this may be subject to review. Nil may be the appropriate number.
- 5.4 On receipt of an application the Local Authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. The Council shall normally take into account:
- Comments/observation of the Police and Council personnel, including compliance with licensing conditions, relevant history (including noise complaints) together with details of previous convictions/prosecutions pending.
  - The suitability and fitness of an applicant/operator to hold a licence.
- 5.5 The number of Sex Establishments or Sex Establishments of a particular kind in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality.
- 5.6 The Licensing Authority shall normally take into account;
- i) the character of the relevant locality;
  - ii) the use to which any premises in the vicinity are put; or
  - iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made;
  - iv) where it can be shown that the business would be managed for the benefit of a third party who would be refused a licence.
- 5.7 In determining the character of 'relevant locality' and the appropriate number of Sex Establishment in that relevant locality, the Local Authority will take into account, but not limit its determination to:
- (a) the use to which any premises in the vicinity are put;
  - (b) the number of existing Sex Establishments both in total and also in respect of each type, i.e. sex cinemas, sex shops or sexual entertainment venues;
  - (c) the number of existing premises engaged in and/or offering entertainment of an adult or sexual nature or entertainment or associated with an adult or sexual nature (for example tattooing, piercing);

- (d) the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons;
- (e) the proximity of educational establishments to the premises;
- (f) the proximity of places of worship to the premises;
- (g) access routes to and from schools, play areas, nurseries, children's centres or similar premises;
- (h) the proximity to shopping centres;
- (i) the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs. This list is not exhaustive;
- (j) the potential impact of the licensed activity on crime and disorder and public nuisance;
- (k) the potential cumulative impact of licensed premises in the area taking into account the days and hours of operation of the activity and the character of the locality where the premises are situated;
- (l) the nature and concerns of any objections received from residents/establishments objecting to the licence application;
- (m) any evidence of complaints about noise and/or disturbance caused by the premises;
- (n) current planning permission/planning requirement on the premises;
- (o) any current planning policy consideration;
- (p) whether there is planned regeneration of the area;
- (q) any current licensing permissions related to the premises in relation to activities, uses and hours.

### **Determining Applications**

- 5.8 The Council has determined that the principles contained within this policy will apply and that applicants must address the principles of this policy in order for any grant of an application to be considered.
- 5.9 The Council can set the number of licensed Sex Establishments it grants in a 'relevant locality'.
- 5.10 An application for a Licence can be refused if the Council considers that the number of Sex Establishments they consider appropriate in a 'relevant locality' would be exceeded by the grant. The term 'relevant locality' is not defined in the Act.

- 5.11 This Council has therefore decided to identify areas in which they do not consider the granting of a Sex Establishment licence to be appropriate.
- 5.12 Chichester District Council covers an area, which includes urban and rural communities.

### **Chichester, Midhurst, Petworth and the 'Manhood peninsula'**

- 5.13 The four main conurbations are the city of Chichester, towns of Midhurst and Petworth and the area referred to as the 'Manhood Peninsula' (including Selsey, and East and West Wittering) these have busy and diverse shopping centres laid out as traditional 'High Streets', incorporating a mixture of independent and national traders.
- 5.14 Commonly included in these areas are a large and diverse range of licensed premises such as pubs, restaurants, cafes and take-away food outlets. There are community facilities in the form of libraries, community centres, schools and places of religious worship.
- 5.15 There are also a number of residential properties within the City and Town centres themselves, many above and adjoining retail units. Bordering these 'High Streets' are large residential areas. Access is equally viable on foot, public or private transport. Accordingly the footfall covers all range groups.
- 5.16 This Council considers that licensed sex establishments may not be suitable for these relevant localities.

### **Rural communities**

- 5.17 Throughout the Chichester district there are currently 29 District Wards and 67 Parishes (59 of which have a Parish Council) consisting of small villages and rural communities. Many of these also have smaller shopping areas.
- 5.18 This Licensing Authority has identified these areas as significantly quieter than those specifically referred to above. Many of these areas however also have pubs, restaurants and take-away outlets. They are not therefore immune to entertainment venues. They too have residential properties either within the trading areas or bordering the main shopping streets, together with residential accommodation above or adjoining retail units. The footfall in these quieter areas still covers all age groups.
- 5.19 This Council considers the association that Sex Establishments have with the 'sex industry' and adult entertainment means they are not suitable for these relevant localities.
- 5.20 There are a number of rural localities within the Chichester district that have small residential communities and businesses. These include agricultural and/or horticultural businesses, operations run from rented accommodation in farms and in some cases small industrial units.
- 5.21 These communities have chosen to live and/or work from these locations because of its tranquillity. The Council wishes to maintain these standards its residents,

businesses in the area and for visitors to enjoy. These areas are too numerous to list due to the size of the district.

5.22 This Council considers that licensed sex establishments may not be suitable for these relevant localities

### **Business Parks and Industrial Estates**

5.23 There are a number of Business Parks/Industrial Estates within the district.

1. Selsey Gate - Pye Business Centre/Mountbatten Place/Pulsar Business Centre/Ellis Square, Selsey
2. Landerry Industrial Site - Selsey
3. Chichester Business Park - Tangmere
4. Terminus Road Industrial Estate – Terminus Road, Leigh Road, Chandler Road - CHICHESTER
5. Dukes Court - Bognor Road CHICHESTER
6. Quarry Lane Industrial Estate - Quarry Lane, Phoenix Business Centre, Spur Road, Angells Estate, Gravel Lane - CHICHESTER
7. Forum Business Centre - Stirling Road CHICHESTER
8. City Business Centre - Basin Road CHICHESTER
9. Appledram Barns, Appledram
10. Vinnetrow Business Park - Runcton
11. North Farm North - Mundham
12. Donnington Park - Donnington
13. St James Industrial Estate - CHICHESTER
14. Ben Turner Industrial Estate - CHICHESTER
15. Shopwhyke Industrial Centre - CHICHESTER
16. Kingley Centre - West Stoke
17. Eastmead Industrial Estate - Lavant
18. Oldwick Farm West - Lavant
19. Charlton Sawmills - Charlton
20. Allmans Business Park - Birdham
21. Northleigh Business Park – Birdham
22. Enborne Business Park, Sidlesham
23. Hills Barns - Chichester
24. East Wittering Business Centre, East Wittering
25. Manor Road EMSWORTH
26. Clovelly Road Industrial Estate – Southbourne/Emsworth
27. Broadbridge Business Centre Bosham
28. Southfield Industrial Park Bosham
29. Holmbush Industrial Estate - MIDHURST
30. The Wharf/Midhurst Business Centre – MIDHURST
31. Hampers Common Industrial Estate – PETWORTH
32. Colhook Industrial Park – PETWORTH
33. Hurstfold Farm Industrial Estate Fernhurst
34. Fernhurst Business Park - Henley, Fernhurst
35. The Old Sawmills Stedham
36. Station Works Elsted
37. Nyewood Industries Nyewood
38. Bognor Road Industrial Estate - CHICHESTER

5.24 The size of these sites varies, but they consist of anything from warehouses, retail outlets and distribution centres to car repair units.

5.25 The hours of operation are generally early morning to early evening.

- 5.26 The nature of the Chichester district is such that these are not sprawling areas and many are bounded by residential communities. Whilst it is accepted that the Business Parks themselves have no residents, consideration must be given to the business communities therein.
- 5.27 The siting of a Sex Establishment within the confines of such areas may give rise to concern.
- 5.28 The issue of late night opening is a factor that must be taken into account. The areas are likely ordinarily to be quiet after the respective units have ceased operating. Customers frequenting Sex Establishments may therefore be vulnerable in these areas, particularly after dark. There is also the question of increased footfall during hitherto quiet times and the inherent risk of opportunist and organized crime against the business units.
- 5.29 This Council acknowledges that a Sex Establishment venue in a business/industrial area does not carry the same risk to vulnerable groups as a residential or retail area. However it does conclude a different type of crime risk, due to the loneliness of the operation and the subsequent risk to established businesses.
- 5.30 This Council considers that licensed sex establishments may not be suitable for these relevant localities and near residential areas.

## **6. INTEGRATING STRATEGIES AND AVOIDING DUPLICATION**

- 6.1 This Authority understands that the co-operation and integration of policies, strategies and initiatives is important. Such integration will be achieved through liaison with the Planning Authority (Development Management or SDNPA), Housing & Environment Services, Police, Trading Standards, Fire Authority, Community Safety Partnership, local businesses, local people and other persons. Agreement about best practice will be achieved where possible.
- 6.2 In addition to the above the Authority will also seek to secure integration of its policy with local crime prevention, transport, tourism, race equality schemes and cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Agreement about best practice will be achieved where possible.
- 6.3 In undertaking its licensing function and in determining applications, the Authority recognises and accepts the duty imposed on it to fulfil its obligations under other legislation, at the same time avoiding duplication as far as possible.

In particular, the Licensing Authority is mindful of statutes and related guidance on:

- Section 17 of the Crime and Disorder Act 1998 (as amended) which requires a Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on and the need to do all that it reasonably can to prevent crime and disorder in the district;
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998, places a duty on public authorities to protect the rights of individuals in a variety of circumstances. In particular, due consideration will be given to the rights under article 1 of the first protocol – protection of property, article 6 – right to a fair hearing and article 8 – respect for private and family life;
- Health and Safety at Work etc Act 1974 and its associated Regulations;
- Environmental Protection Act 1990, in relation to statutory nuisance;

- The Anti-social Behaviour, Crime and Policing Act 2014 in relation to public nuisance;
- Equality Act 2010 in relation to elimination of unlawful discrimination and promoting premises that show safe design for all users;
- The Clean Neighbourhoods and Environment Act 2005 (as amended); and
- The Health Act 2006.

## **7. DURATION OF LICENCE**

- 7.1 Sex Establishment licences will normally expire on an annual basis, but can be issued for a shorter term if deemed appropriate.

## **8. HEARINGS/APPEALS**

- 8.1 Under Paragraph 10 (19) Schedule 3, this Authority will give applicants the opportunity of appearing before the relevant Licensing Sub-Committee prior to a decision being made to refuse the grant, variation or transfer of a licence.
- 8.2 Where the Licensing Authority is required to determine an application by reference to a Sub-Committee, the applicant and objectors will be advised of the date, time and venue of the hearing.
- 8.3 In preparation for the hearing, all parties will receive a copy of the Licensing Officer's report that will contain a summary of the application, objections and any other relevant information.
- 8.4 At the hearing, all parties will have the opportunity to address the Sub-Committee and ask questions of all parties that they feel are relevant to the determination process. All parties will be reminded that they can if they wish be legally represented at their own expense at the hearing.
- 8.5 The Sub-Committee will either communicate the decision at the end of the hearing or within five working days. All parties will receive written notification of the decision within seven working days.
- 8.6 Whilst the Act does not stipulate a timescale for hearing applications where objections have been submitted and accepted, this Licensing Authority will endeavour to determine the application within 28 days from the last day of the advertising period.
- 8.7 The Act strictly limits who can appeal to the Magistrates Court, the matters about which they can appeal. The Act affords rights of appeal to the industry only. The decisions against which a right of appeal lies are refusals of grants, renewals, transfers or variations, the imposition of conditions and also revocations.
- 8.8 Any appeal to the Magistrates Court must be made within 21 days from the date on which the person is notified of the decision or became aware of conditions imposed by the Licensing Sub-Committee.
- 8.9 Where an application is lodged against refusal to renew or for revocation of a licence, the licence remains in force until such time as the appeal is determined.

- 8.10 Where an appeal is lodged against conditions applied to a licence, the conditions are deemed not to come into force until the determination or abandonment of the appeal.

## **9. CONDITIONS**

- 9.1 This policy provides for a set of 'standard conditions' to be attached to each licence granted, renewed or transferred by the Licensing Authority unless they have been expressly excluded or varied. Such conditions will be applicable to Sex Establishments, Sex Cinemas and Sex Shops.
- 9.2 Further conditions may be attached to individual licences where the Authority deems it necessary.
- 9.3 The Licensing Authority will seek to avoid duplicating licence conditions where a premise holds licences under both the Licensing Act 2003 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

## **10. ENFORCEMENT**

- 10.1 It is essential that premises are maintained and operated so as to ensure compliance with the specific requirements of the Act and the relevant licence. The Licensing Authority will make arrangements to monitor premises and take appropriate action to ensure this.
- 10.2 The Licensing Authority will liaise with Sussex Police and partner agencies on issues of enforcement including such matters as crime prevention, public safety, public nuisance, protection of children from harm, transport and anti-social behaviour, with the view to establishing, where necessary, an enforcement protocol in order to ensure that resources are targeted at problem and high-risk premises.
- 10.3 Premises visits will be made on a targeted and risk-assessed basis, or as necessary e.g. following a complaint.
- 10.4 Wherever possible inspections will be co-ordinated with other inspection/enforcement/partner agencies.
- 10.5 When considering enforcement action, the Licensing Authority will consider each case on its own facts and merits and in accordance with the Housing & Environment Services Enforcement Policy.
- 10.6 The Licensing Authority may from time to time exercise its power under Section 115 of the Crime and Disorder Act 1998 to exchange data and information with the Police and other partners to fulfil its statutory objective of reducing crime and disorder.

## **11. HUMAN RIGHTS**



- 11.1 In determining applications, the principles of the Human Rights Act 1998 must be taken into consideration. The Act acknowledges that Local Authorities are entitled, amongst other things, to act where this is in the 'general interest'.
- 11.2 Should it be decided to refuse or to grant an application, or to attach conditions, the rights of appeal that exist through the Magistrates Court will ensure that the principles of the Human Rights Act 1998 are adhered to.

## **12. POLICY REVIEW**

- 12.1 As indicated above, this Policy will take effect on the 17 May 2016 and will remain in force for a period of five years.