



**WATFORD
BOROUGH
COUNCIL**

LICENSING COMMITTEE

7 July 2020

7.00 pm

Virtual meeting

Contact

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Publication date: Monday, 29 June 2020

Committee Membership

Councillor G Saffery (Chair)

Councillor A Dychton (Vice-Chair)

Councillors S Bolton, A Grimston, I Hamid, K Hastrick, M Hofman, A Khan, R Martins, B Mauthoor, M Mills, J Pattinson, R Smith, I Stotesbury and R Wenham

Agenda

Part A - Open to the Public

1. Apologies for absence

2. Disclosure of interests

3. Minutes

To agree the minutes of the meeting held on 9 March 2020.

4. Review of Sex Establishment Licence Policy (Pages 3 - 52)

A report of the Senior Licensing Officer asking the committee to approve a new Sex Establishment Licensing Policy.

Part A

Report to: Licensing Committee

Date of meeting: Tuesday, 7 July 2020

Report author: Senior Licensing Officer (AY)

Title: Review of Sex Establishment Licence Policy

1.0 Summary

1.1 The council has powers in relation to sexual establishments ('sex shops') and sexual entertainment venues (such as lap-dancing clubs). The committee has adopted a non-statutory policy regarding these licences, which is due for review.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
Not renewing policy	Policy lapses, preventing controls in policy from being enforced and implemented, including standardised conditions and limits on number of premises	Renew policy	Treat	High
Legal challenge to decision if consultation comments not properly considered	Negative perception of council and its licensing functions, and challenge through the Courts	Ensure that results of public consultations are thoroughly considered and amendments to proposed policy made where	Treat	Medium

		necessary and appropriate		
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3.0 Recommendations

- 3.1 That the policy at appendix 3 be approved and adopted for three years, subject to any amendments proposed and approved by the committee, starting immediately upon the expiry of the current policy.

Further information:

Austen Young

austen.young@watford.gov.uk

Report approved by: Justine Hoy, Head of Community Protection

4.0 Detailed Proposal

- 4.1 The council has powers under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) to licence 'sex shops' and lap-dancing clubs. There is currently only one such premises operating within the borough, being a sexual entertainment venue trading in Market Street.
- 4.2 In October 2010 the Licensing Committee adopted a non-statutory policy, setting out its approach to dealing with applications for these types of licences. The policy particularly sets out the number of sex establishment premises that the committee thought appropriate within defined localities, and in many cases that number is nil. It is open to applicants to argue that they should be considered an exception to the policy.
- 4.3 On 15 June 2011 the Committee agreed to reduce the number of sexual entertainment venues from one to nil in The Parade. This followed the closure of one of the two sexual entertainment venues that were then trading.
- 4.4 On 14 July 2014, the Committee agreed to renew the policy for a further three years.
- 4.5 On 26 June 2017, the Committee again agreed to renew the policy for a further three years. This policy is attached at appendix 1.
- 4.6 Officers were of the opinion that the policy only needed minor amendments rather than significant change. The amendments are in regards to housekeeping and updating terms of the policy, without affecting the specific policy. This approach was taken on the experience of officers that no significant representations were

made, nor evidence provided, during the life of the policy that the policy requires amending.

- 4.7 This approach was also taken upon considering the impact of the covid-19 pandemic, and how, while the policy did require renewal, this was not the most appropriate time to introduce significant changes upon business and residents.
- 4.8 The previous two policy renewals were undertaken without public consultation because the proposed changes were only minimal. Due to this, officers did consider it appropriate to hold a consultation on the renewal of the policy at this time so that people who wished to comment were given an opportunity to do so.
- 4.9 Consultations are required to be held in accordance with the Government's consultation principles¹. These principles state:
- Consultations should be clear and concise
 - Consultations should have a purpose
 - Consultations should be informative
 - Consultations are recognised as only part of a process of engagement
 - Consultations should last for a proportionate amount of time
 - Consultations should be targeted
 - Consultations should take account of the groups being consulted
 - Consultations should be agreed before publication
 - Consultation should facilitate scrutiny
 - Consultation exercises should not generally be launched during local or national election periods.

Officers consider that the consultation has been held in accordance with these principles.

- 4.10 The consultation was carried out between 4 and 21 June 2020. Consultees were contact directly by email so as to avoid any delay in postal correspondence. The time period was considered appropriate due to the consultation seeking opinion on renewing the policy without making significant changes, whereas a proposal to significantly change the policy would have justified a longer consultation period. The consultation was open to any person to submit comments by a public consultation accessible through an online survey through the council's website and our sex establishment webpages. The webpage also stated that comments could be submitted in writing and not necessarily through the online survey.
- 4.11 Consultees were specifically asked whether the council should continue to limit the number of licensed establishments within the town centre, and whether the council

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf

should continue to prescribe standard conditions for licences granted under this policy. Consultees were also given the opportunity to provide detailed responses and reminded that they were not restricted to only commenting on the limit of premises and standard conditions.

4.12 The following groups were specifically contacted and invited to partake in the consultation:

- Licence holders
- Solicitors acting for licence holders
- Hertfordshire Constabulary
- Central Town Residents' Association
- Watford BID

4.13 There is currently only one business operating within the borough to which this policy applies. They were contacted directly for their input on the policy and its renewal. Officers had recently been in contact with the premises regarding an application to vary their premises licence issued under the Licensing Act 2003, where they were represented by a firm of solicitors.

4.14 All applications for sex establishment licences made under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) are required to be copied to the local Police, so their views were sought as a statutory consultee. It was also considered appropriate to consult with the Police due to their involvement with the town's night-time economy, and it is recognised that sexual entertainment venues are a late night venue.

4.15 The policy specifically allows sex establishments to only operate within the town centre, being Market Street and The Parade. It was therefore appropriate to seek the views of parties who represent businesses and residents within these areas, which is why the BID and the local residents' associations were contacted.

4.16 For ease of reference, officers propose that the following amendments are made to the policy in terms of updating the content of the policy without changing the impact of the policy:

Paragraph 1.4	Added the word 'initially' to the paragraph to describe the first consultation on this policy
Paragraph 1.8	Confirms the date of the consultation and approval of the new policy
Paragraphs 1.9	Confirms the details of the consultation
Paragraph 1.10	Amendment of paragraph number following the insertion of new paragraph 1.8
Paragraph 2.1	Population estimate updated

Paragraph 2.2	Updated to include information on the council's current Economic Development Strategy
Paragraphs 2.3 to 2.5	Updated the description of the borough in consultation with the council's Economic Development Officer
Paragraph 2.7	Updated to reflect that only one premises is currently licensed and trading
Paragraph 2.8	Updated to include information on the council's current Corporate Plan
Paragraph 3.6	Removed reference to the committee protocol being available online, but is still available upon request
Paragraph 4.3	Updated to reflect the full title of the Act, including the year
Paragraph 6.1	Formatting of the text only, without changing the content
Paragraph 7.13	Updated contact details

5.0 Consultation Responses

- 5.1 Responses to the consultation were received from the Police, Watford BID, and the existing licence holder.
- 5.2 The Police and Watford BID were in support of keeping the policy as it was, without making any changes, and keeping the limits and standard conditions in place.
- 5.3 The existing licence holder did make specific comments with regards to changes that they would like to see made to the policy. Their responses, which was submitted through their agent, is attached at appendix 2.
- 5.4 Comments were specifically made with regards to the limit of the number of sexual entertainment venues in the town centre, and they suggest that the council consider one of the following options:
- allow one sexual entertainment venue in Market Street and one on the Parade; or
 - allow one sexual entertainment venue within a consolidated area encompassing Market Street and The Parade
- 5.5 Officers do confirm, as stated in the submission, that a previous policy did permit one premises to operate within The Parade as a sexual entertainment venue, until that particular premises ceased trading and the committee agreed to revise the policy to allow no such premises on The Parade.
- 5.6 Officers would remind members that any decision on renewing the policy, with amendments or not, should give consideration to the comments received during the

consultation period, but that members are not bound to implement any suggested changes.

- 5.7 Officers would recommend that members agree the latter proposal, being to only allow a total of one premises within a location which consists of the High Street, The Parade, and Market Street.
- 5.8 In making this recommendation, officers advise that we have considered the points made in the submission with regards to the rationale behind such an approach. This approach confirms that the council's intention is to only licence one premises to operate within or near to the town centre, which reflects the current position which was supported by the Police and Watford Bid.
- 5.9 Officers appreciate that the town centre has a diverse night-time economy, which has been recognised in the award of the Purple Flag, and that the existing premises contributes to this economy. However, it is also acknowledged that only one sexual entertainment venue has traded in the town for a nearly a decade without significant demand or enquiries from the premises or other operators to increase this number. Officers also advise that while we respectfully agree that there may be no specific legal basis on which to exclude such premises from the town centre, the provision in the Act is that the local authority may determine for themselves a number of premises that they consider is "appropriate" for a locality, which allows councils to set their own visions of their boroughs and town centres as they may determine.
- 5.10 Members are reminded that the policy cannot prohibit applications, even if a limit on the number of premises is in place. The council is required to process any valid application made to it, and these applications will be subject public consultation. Should valid objections be received then the application is to be determined by a licensing sub-committee.
- 5.11 In any case, where an application is heard before a sub-committee, it will be for the sub-committee to decide if the policy should be implemented or not, and the applicant does have a right to argue that they should be considered as an exception to the policy based upon the individual merits and facts of the relevant application. In all such cases, it will be for the applicant to persuade the sub-committee that an exception to be considered, not on the sub-committee to show why an exception should be made.

6.0 **Implications**

6.1 **Financial**

- 6.2 The Shared Director of Finance comments that there are no specific financial implications in this report.

6.3 **Legal Issues** (Monitoring Officer)

6.4 The Group Head of Democracy and Governance comments that the legal implications are contained within the body of the report.

6.5 **Equalities, Human Rights and Data Protection**

6.6 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
- advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them
- foster good relations between persons who share relevant protected characteristics and persons who do not share them.

6.7 Having had regard to the council's obligations under s149, it is considered that no additional equalities assessment is required to be conducted due to the very minor changes to the policy.

6.8 It is acknowledged that the policy only directly affects a maximum of two businesses in the borough. The policy sets a limit on the number of businesses that may operate within the borough, and that licences are granted subject to specific conditions. It is also noted that the application and determination process is set out in legislation. It is also noted that we currently have one premises operating under this policy within the borough, which itself has not been recently subject to any complaints or allegations that its operation or existence is undermining the council's equality obligation. However, officers can advise that should any such complaints be made they will be investigated and necessary actions taken should the complaints hold any merit.

6.9 Having had regard to the council's obligations under the Data Protection Act 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

Appendices

Appendix 1 – Existing policy (2017-2020)

Appendix 2 – Consultation response

Appendix 3 – Proposed policy (2020-2023)

Background papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Watford Borough Council Sex Establishment Licensing Policy 2017-2020
Consultation Principles (2018)



WATFORD BOROUGH COUNCIL

SEX ESTABLISHMENT LICENSING POLICY

JULY 2017 – JULY 2020

Comments are invited on this document to:

Licensing
Watford Borough Council
Town Hall
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WD17 3EX

Tel: 01923 278476
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SEX ESTABLISHMENT LICENSING PART A

1. Preface

- 1.1 Watford Borough Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that we can licence sex shops, sex cinemas, and sexual entertainment venues in the Borough. In this policy, we refer to these as “sex establishments” unless we say otherwise.
- 1.2 We do not take a moral stand in adopting this policy. We recognise that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a licensing authority to administer the licensing regime in accordance with the law.
- 1.3 The 1982 Act and the 2009 Act can be viewed at www.legislation.gov.uk.
- 1.4 We consulted on this policy between 7 July 2010 and 21 September 2010 and it was approved by our Licensing Committee on 11 October 2010.
- 1.5 It was revised by the Committee on 15 June 2011 when one of the licensed sex establishments in the Borough ceased trading.
- 1.6 It was reviewed again by the Committee on 14 July 2014. No changes in the policy were proposed at this time.
- 1.7 It was reviewed again on 26th June 2017. No changes in the policy were proposed at this time.
- 1.8 Initial consultation was conducted with local residents; existing and future potential holders of sex establishment licences in the Borough; the statutory responsible authorities under the Licensing Act 2003; and holders of premises licences under the Licensing Act 2003 in the Borough.
- 1.9 As each licence under this policy is subject to annual renewal and public consultation, and no significant changes have been recommended, further public consultation on the current edition of the policy was not undertaken.
- 1.10 In developing this policy, 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’ Code (set out under the Legislative and Regulatory Reform Act 2006) to carry out our activities in a way that supports those we regulate to comply and grow and particularly consider the impact of regulations on small businesses; and
 - (c) the Provision 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.

2. The Borough of Watford

- 2.1 Watford Borough Council is situated in the county of Hertfordshire, which contains ten district councils in total. The council area has a population of 96,400 (2016 census mid-year estimate) making it one of the smallest in the county in terms of population.
- 2.2 Watford Borough was granted a Royal Charter in 1922. Traditionally a market town, it has developed into an attractive sub-regional shopping centre and important centre for cultural and recreational facilities. Watford is at the centre of a sub-region serving approximately 500,000 people, living within a 20 minute travelling time and approximately 5,000,000 people living within a 45 minute travelling time' (Watford Borough Council Economic Development Strategy 2010-15).
- 2.3 Situated in the South West of Hertfordshire, Watford has several locational advantages due to its excellent communication links. The M1 motorway, with direct links to the town centre, and the London to Glasgow railway pass through the Borough. London Euston can be reached in 20 minutes, while the nearby M25 motorway has enhanced road access to the major airports at Heathrow, Gatwick, Stansted and Luton. It is the fifth-best connected local authority in the county (Local Futures, January 2013).
- 2.4 Watford has major A-road links to adjoining areas and is also connected to the underground rail network with the Metropolitan Line terminus adjacent to Cassiobury Park. A branch line railway serves St. Albans Abbey.
- 2.5 The Borough covers an area of 2,142 hectares (8.3 sq. miles). Watford is a major town in the region. It is a sub-regional shopping destination, centered around the Intu Shopping Centre in the town centre, and has one of the most vibrant night-time economies in Hertfordshire. It has been awarded Purple Flag status by the Association of Town Centre Managers for its management of the night-time economy. The purple flag status was renewed most recently in August 2016. In June 2014 it started a three-year programme to regenerate the town centre with an innovative culture programme. An expansion of the Intu Shopping Centre is underway and scheduled for completion in the autumn of 2018. Watford was traditionally a centre for the printing industry and now boasts the headquarters of a number of nationally known firms. Unemployment figures are well below Great Britain's average. However there are pockets of deprivation, characterised by a high concentration of minority ethnic groups, single parent families, low income households and a high incidence of long term health problems.
- 2.6 Potential operators should however refer to the Local Development Framework (through our Development Control Team or on our website at www.watford.gov.uk) for details about the local planning authority's approach to granting planning permission for developments where such activities may take place.

- 2.7 At the time of adopting this policy, the Council licences one sex shop under the 1982 Act. Another venue is authorised under the Licensing Act 2003 to provide entertainment which would require licensing as a sexual entertainment venue.
- 2.8 Further information about the Borough is contained in the 2016-2020 Corporate Plan, which can be obtained from the Council's offices or at https://www.watford.gov.uk/downloads/file/1095/corporate_plan_2016-2020

3 Commenting on licence applications

- 3.1 Unlike some other licensing regimes (such as for alcohol, entertainment, or gambling), a wide range of people can raise objections about sex establishment licences. The police are a statutory consultee for all applications.
- 3.2 Objectors should have something to say which is relevant to consideration of the statutory grounds for refusal that are set out in the 1982 Act.
- 3.3 We take the following approach to deciding applications:
- (a) each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making;
 - (b) objectors can include residents'/tenants' associations, community associations, and trade associations. Councillors and MPs may also raise objections. Elected councillors may represent interested parties, providing they do not also sit on the Licensing Committee determining the application in question;
 - (c) we will give clear reasons for our decisions.
- 3.4 We will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by our officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given a written reason. A report will be made to our committee determining the application (if appropriate), indicating the general grounds of the representation and the reason it was rejected.
- 3.5 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 3.6 Objections will be considered by a Licensing Sub-Committee of three Councillors. We give both applicants and objectors an equal opportunity to state their case in accordance with our protocol which is available on our website at www.watford.gov.uk or from the Environmental Health Business Team.
- 3.7 Objections should ideally:
- be made in writing (preferably in duplicate, unless submitted electronically)
 - be in black ink on single sides of A4 paper

- indicate the name and address of the person or organisation making the representation (although this will not be disclosed to licence applicants)
- indicate the premises to which the objection relates
- indicate the proximity of the premises to the person making the objection. A sketch map or plan may be helpful to show this
- Clearly set out the reasons for making the objections.

4. Exchange of Information

- 4.1 The authority may from time to time exercise its' powers 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 in the area.
- 4.2 Details of applications and objections which are referred to a Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.
- 4.3 The names and address of objectors will not be disclosed to applicants or published in public reports in accordance with the Local Government (Miscellaneous Provisions) Act. Such details will be made available to Councillors on the Licensing Committee.

5. Compliance and Enforcement

- 5.1 We recognise that sex establishments are not generally a source of crime or disorder. We will adopt a light touch inspection regime, carrying out simple inspections of premises no more than once a year unless exceptional circumstances require otherwise.
- 5.2 We will undertake enforcement work in a way consistent with the principles of the work of the Department for Business, Energy & Industrial Strategy and other central government bodies in its consideration of the regulatory functions of local authorities.
- 5.3 Enforcement work will also be consistent with the Regulators' Code (set out under the Legislative and Regulatory Reform Act 2006)
- 5.4 The council has signed up to the Hertfordshire Better Business for All Partnership Charter, a voluntary undertaking between Hertfordshire Regulatory Services and all local businesses, irrespective of size or resources. This means that we will undertake regulatory activity in a fair, helpful, transparent, proportionate and consistent way.
- 5.5 Our approach to enforcement is set out in our enforcement policies which are available on request.

PART B

6. SEX SHOPS

6.1 Significant degree

Licences for sex shops are required where 18R films are sold, or where there is a “significant degree” of “sex articles” for sale. The phrase “sex articles” is defined in the 1982 Act as:

(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) 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.

6.2 The phrase “a significant degree” is not defined. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider:

- (1) the ratio of sex articles to other aspects of the business
- (2) the absolute quantity of sales
- (3) the character of the remainder of the business
- (4) the nature of the displays in the business
- (5) turnover generated by sales of sex articles
- (6) the format of any literature, publicity or advertising materials
- (7) other factors which appear to be materially relevant.

6.3 Relevant localities

There are some specific grounds for refusing sex establishment licences set out in paragraph 12 of schedule 3 to the 1982 Act. These include where the

applicant is unsuitable to hold a licence, due to their age, domiciliary status or previous criminal convictions.

6.4 We can also refuse applications for new or renewed licences where:

- (1) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which we consider appropriate for that locality;
- (2) the grant or renewal of the licence would be inappropriate, having regard to
 - (i) the character of the relevant locality, or
 - (ii) the use to which any premises in the vicinity are put, or
 - (ii) to the layout, character or condition of the premises.

6.5 We recognise that different parts of our Borough have different characteristics, and numbers of sex shops appropriate for a locality are set out below:

Locality	Number of sex shops	Reason
The Parade, High Street and Market Street between High Street and Exchange Road	1	This consists of primary retail frontage and is suitable for this type of activity
Market Street between Exchange Road and Cassio Road	0	Although adjacent to the town centre, there are residential premises in and very close to Market Street, as well as other community premises such as religious buildings, charity enterprises, doctor's surgeries etc
Queens Road	0	This is a densely-built area with both retail activity and residential premises and the use of one retail unit would make one less retail unit available for other local needs
Lower High Street	0	There are a number of sheltered accommodation units in the Lower High Street which would make this area inappropriate
Local shopping areas	0	Local shopping areas serving local residents, and the use of premises as a sex establishment would otherwise deprive the community of a retail facility

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6.6 This table is not exhaustive and we would consider representations from applicants as to why our view should be changed about any particular locality. Where this is likely to affect existing licence-holders, we will give at least two months' notice in which they may make representations. In considering the characteristics of a locality we shall particularly take account of the density and proximity of:

- (1) residential accommodation
- (2) parks and children's play areas
- (3) other retail units (and their uses)
- (4) schools
- (5) communal buildings
- (6) alcohol or entertainment licensed premises
- (7) bus stops.

6.7 **Length of licence**

We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of a year at a time to provide certainty to those operating businesses.

6.8 **Waivers**

We do not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence, except in extreme circumstances considered by our full Licensing Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).

6.9 **Application form**

We have a standard application form, including public notices, which are available on request from our the Environmental Health Business team.

6.10 **Licence conditions**

We have adopted standard conditions for the operation of sex shops that are set out at appendix I. Where it is reasonable and necessary to do so, our Licensing Committee will impose additional proportional conditions on a licence. Wherever possible, these will be discussed in advance with operators by our licensing officers.

6.11 **Fees**

Our fees are set each year and details are available from the Environmental Health Business and on our website at www.watford.gov.uk.

PART C

7. SEXUAL ENTERTAINMENT VENUES

7.1 Relevant entertainment

Licences for sexual entertainment venues are required for “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.

7.2 “Relevant entertainment” is defined in schedule 3 (as amended by section 27 of the Policing and Crime Act 2009) as “any live performance or 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 an audience (whether by verbal or other means).” An audience can consist of just one person, eg in a private booth.

7.3 In deciding whether entertainment is “relevant entertainment” we will judge each case on its merits, but will generally apply to:

- (1) lap dancing
- (2) pole dancing
- (3) table dancing
- (4) strip shows
- (5) peep shows
- (6) live sex shows

Adult entertainment not classed as “relevant entertainment” may still require licensing under the Licensing Act 2003.

7.4 Relevant localities

There are some specific grounds for refusing sex establishment licences set out in paragraph 12 of schedule 3 to the 1982 Act. These include where the applicant themselves are unsuitable, due to their age, domiciliary status or previous criminal convictions.

7.5 We can also refuse applications for new or renewed licences where:

- (1) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number the number which we consider appropriate for that locality;
- (2) the grant or renewal of the licence would be inappropriate, having regard to
 - (i) the character of the relevant locality, or
 - (ii) the use to which any premises in the vicinity are put, or
 - (ii) to the layout, character or condition of the premises.

7.6 We recognise that different parts of our Borough have different characteristics, and numbers of sexual entertainment venues appropriate for a locality are set

out below:

Locality	Number of SEVs	Reason
The Parade, High Street	0 [1]	The previous SEV-licensed premises in The Parade stopped offering "relevant entertainment" under the Act and begun to offer more in the way of live entertainment, which is in support of the council's family-friendly agenda.
Market Street between High Street and Exchange Road	1	This locality is characterised by a number of retail premises, food premises and, for a number of years, a lap dancing club.
Market Street between Exchange Road and Cassio Road	0	Although adjacent to the town centre, there are residential premises in and very close to Market Street, as well as other community premises such as religious buildings, charity enterprises, doctor's surgeries etc
Queens Road	0	This is a densely-built area with both retail activity and residential premises and the use of one retail unit would make one less retail unit available for other local needs
Lower High Street	0	There are a number of sheltered accommodation units in the Lower High Street which would make this area inappropriate
Local shopping areas	0	Local shopping areas serving local residents, and entertainment premises of this nature would be an inappropriate facility in a retail area
Kingswood Leisure Park	0	The leisure park has a cinema, restaurants and bowling alley; a sexual entertainment venue would be inappropriate given the family-orientated nature of these premises

7.7 This table is not exhaustive and we would consider representations as to why our view should be changed about any particular locality. Where this is likely to affect existing licence-holders, we will give at least two months' notice in which they may make representations. In considering the characteristics of a locality we shall particularly take account of the density and proximity of:

¹ Amended on 11 August 2011 following public consultation: see the minutes of the Licensing Committee of 15.06.11.

- (1) size of neighbourhood
- (2) impact of thoroughfares
- (3) residential accommodation
- (4) parks and children's play areas
- (5) other retail units (and their uses)
- (6) schools
- (7) communal buildings
- (8) alcohol or entertainment licensed premises.

7.8 Length of licence

We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of a year at a time to provide certainty to those operating businesses.

7.9 Waivers

We do not consider it would be appropriate to permit waivers from the requirements to hold a sexual entertainment venue licence, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

7.10 Application form

We have a standard application form, including public notices, which are available on request from the Environmental Health Business Team.

7.11 Licence conditions

We have adopted standard conditions for the operation of sex shops that are set out at appendix II. Where it is reasonable and necessary to do so, our Licensing Committee will impose additional proportional conditions on a licence. Wherever possible, these will be discussed in advance with operators by our licensing officers.

7.12 Fees

Our fees are set each year and details are available from the Environmental Health Business Team and on our website at www.watford.gov.uk. We charge separate fees for applying for a licence, renewing a licence, and for making major and minor variations to a licence.

7.13 Should you have any comments as regards this document please send them via e-mail or letter to:

Richard Brown
Environmental Health Manager (Business)
Community and Environmental Services
Watford Borough Council
Town Hall
Watford
Hertfordshire
WD17 3EX

Email: licensing@watford.gov.uk

**APPENDIX I
STANDARD CONDITIONS FOR SEX SHOPS**

Standard Conditions for Sex Establishment Licence

Management of the Premises

1. The Licensee or some responsible person nominated by him (“the manager”) shall have personal responsibility for and be present on the Premises at all times the Premises are open to the public.
2. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
3. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council or the local trading standards authority.
4. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
5. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee’s control of the Premises.
6. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed.
7. No person under the age of 18 shall be admitted to the Premises and a notice to this effect, in accordance with condition 19, shall be displayed on the outside of the Premises.
8. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the Premises.
9. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.

10. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's 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 being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

Opening of the Premises

11. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:
Monday – Saturday 9 am – 6 pm
Sunday 11 am – 4 pm
12. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day or Good Friday.

Conduct of the Premises

13. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.
14. No sex articles or 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.
15. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
16. All sex articles and other things displayed for sale, hire, exchange or loan within the Premises shall be clearly marked to show the price being charged.
17. All printed material offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be displayed in a conspicuous position within the Premises.
18. No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

External Appearance

19. The holder of a sex establishment licence may exhibit on the outside of the Premises the name of the business and a notice, capable of being enclosed by a rectangle one square metre in area or such other size as agreed with the Council, consisting of the words 'Licensed Adult Establishment'.
20. The holder of a sex establishment licence shall exhibit on the outside of the Premises a notice, capable of being enclosed by a rectangle one square metre in area, of the times of opening and of the words 'No person under the age of 18 allowed. People who appear to be under the age of 21 will be required to show proof of their age.'
21. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 18 and 19 or otherwise approved by the Council in writing;
(b) No external loudspeakers may be installed.
22. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

State, Condition and Layout of the Premises

23. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
24. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
25. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the Premises shall be visible when persons are entering or leaving the Premises.
26. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
27. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
28. Alterations or additions, either internal or external, shall be not be made to the Premises without prior written consent from the Council.

29. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
30. 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.

Safety and Security

31. The Licensee shall take all reasonable precautions for the safety of the public and employees.
32. The Licensee shall institute steps to check the age of customers entering the shop who appear to be between the ages of 18 and 21 in order to ensure that they are not younger than 18.
33. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council.

Goods Available in Sex Establishments

34. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a Sex Establishment shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
35. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
36. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations from time to time and in particular any such material related to AIDS. Free literature relating to the prevention of sexually transmitted diseases shall be given to each customer after purchase of a Sex Article. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

APPENDIX II
STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

1. The Licensee must remain in personal control of the Premises at all times or nominate an individual in writing over the age of 18 with the authority to direct activities within the Premises.
2. Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
3. The Licensee must ensure that a suitable number of trained staff are employed to supervise the interior of the Premises (“floor supervisors”) whilst performances are being given under this licence.
4. No children under the age of 18 shall be admitted to the Premises. Customers who appear to be under the age of 25 must be asked to provide photographic proof of their age. The Licensee must provide prominent notices at each entrance to the Premises to this effect.
5. Performers shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
6. (a) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful or offensive manner.

(b) Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

(c) The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises and which may be offensive.

(d) The Licensee shall ensure to the Council’s satisfaction (including, where required, necessary planning or building control consents) that the interior of the Premises is not visible from the outside of the Premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from outside of the Premises.
7. The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst sexual entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
8. Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.

9. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
10. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.
11. Performers must dress fully at the end of each performance.
12. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
13. Performers must never be alone in the company of a Customer except in an area open to the public within the Premises.
14. The Licensee is to ensure a sufficient number of door supervisors are employed inside the Premises whilst sexual entertainment is provided to supervise the Performers and Customers.
15. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
16. Performers are never to be in the company of a customer except in an area open to the public within the Premises (excluding the toilets).
17. The Licensee must ensure that during the performance of a table dance:
 - (1) customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
 - (2) customers must remain seated during the entire performance of the dance;
 - (3) for the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - (4) Performers must not sit or straddle the customer;
 - (5) Performers must not place their feet on the seats.
18. The Licensee must ensure that during performances to which this Licence relates:
 - (1) Performers may not perform any act that clearly simulates any sexual act;
 - (2) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (3) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (4) Performers must never intentionally touch the genitals or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals or breasts;
 - (5) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (6) Performers only perform nude or semi-nude dancing (of any description) within areas specified by the Council.

19. The Licensee must ensure that during performances to which this Licence relates:
 - (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
 - (2) Customers must remain appropriately clothed at all times.

20. The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of Hertfordshire Constabulary, and that any images are (a) retained for a period of at least 31 days and (b) made available on request to a police officer or authorised officer of the Council.

21. The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Dear Officers / Austen

Thank you very much for inviting Admiral Bars (Watford) to respond to your policy consultation scheduled to expire on Sunday 21 June. We act for Admiral Bars and we have been authorised to furnish you with the following commentary.

We make the following observations in respect of the sexual entertainment venues (SEV) part of the policy, as opposed to the sex shop element as this is outside the purview of our client's operations.

Licensing Policy Overview

Our client's view is that the licensing policy works well. It attends (respectfully) to all the various legal issues that are material, it fairly articulates the absence of morality as a consideration within sexual entertainment venue licensing and sets out the basis on which matters are considered and determined.

We make one proposed amendment, re locations, below.

Diamonds and Strings

As you will be aware Diamonds and Strings has operated as a table dancing and striptease venue within the city for a number of years. We are pleased to observe within the policy that table dancing venues do not, as a rule, give rise to concerns about crime and disorder or anti-social behaviour and that has been our experience.

Obviously from time to time issues arise and need attending to, as with all licensed premises, but we have found that the engagement with the authorities whilst formal and robust, has also been open and transparent with nothing that could fairly be described as being to the premises' discredit.

As you will also be aware the premises recently made an application to vary its premises licence (the alcohol late night refreshment and regulated entertainment permission) and this application was granted under delegated authority with no representations (objections) being received.

That is, we'd respectfully suggest, in and of itself, a positive observation about the existing operation.

Conditions

Our client's sexual entertainment venue licence (and the associated premises licence) are carefully conditioned licences and the lack of objection to previous rules and the aforementioned lack of objection to a variation to permit increased hours (broadly), for the premises licence indicate, we believe, that the correct balance has been struck in the formulation of the various conditions and licences so as to ensure that the premises uphold the licensing objectives, (in so far as the premises licence is concerned) and attend to all of the additional and various concerns legitimately touched on in this policy, such as antisocial behaviour, protection of the vulnerable, protection of amenity etc.

Relevant Localities

There is only one point in the current policy on which our clients would wish to pass observation and invite the authority to amend and/or change the existing provision. The premises referenced on page 10 of the existing policy at Market Street (between High Street and Exchange Road) is our client's premises.

We understand that no similar premises are anticipated nor desired in the following locations, Market Street between Exchange Road and Cassio Road, Queens Road, Lower High Street, Local shopping areas and Kingswood Leisure Park. We will not repeat the various reasons here but they are understood and we are respectful of them.

However, we would invite the authority to give consideration to a permission for an SEV, if one is not already in existence, on the Parade, High Street. We understand that a premises that now trades as a music and dance/food/alcohol premises used to operate entertainment of this sort from the location.

Our response to this consultation is to suggest that whilst it may be perfectly legitimate to control the number of sexual entertainment venues within the city centre, there is no legal basis, currently, on which premises should be presumed to be refused from operating within the Parade, High Street location.

We note that there is a reason given for the previous SEV licenced premises stopping offering relevant entertainment which is the development of its live entertainment offer. We cannot comment on whether that can fairly be said to be in support of the council's family friendly agenda, respectfully that appears to be a matter for the premises licensing considerations and policy.

What we believe can fairly be said are the following points:-

- . An SEV venue previously operated in this location
- . The development of its business away from this type of entertainment seems to be have been a commercial decision made by the operators not something arising as a result of policy issues, enforcement complaints nor concerns
- . The significant change in the profile of the High Street, with many closed and underinvested in units merits careful consideration
- . Footfall, particularly late at night, here, is light, in our view indicative of the diminution in the late night economy in this part of the city centre.
- . Whilst it may be an entirely legitimate request for premises of this sort to have discrete sensitive facia and advertising, the location itself couldn't and shouldn't fairly be described as somewhere that it would be inappropriate for premises of this sort to operate within.
- . Indeed the regeneration of the city centre through the use and occupation of the various leisure units could fairly be described as an imperative for the city.

Whilst it may be perfectly legitimate for the restriction on the volume of premises, as a whole, within the city centre to be maintained (candidly from the report we are currently a little unsure as to whether that is one or two), we see no legitimate basis on which there should be any distinction between the Parade, High Street and Market Street between High Street and Exchange Road. Those two locations could perfectly permit one premises to trade without in any way undermining the policy or the principles that sit behind it.

Whereas the locations identified as being inappropriate for these sort of premises have a rationale that can fairly be followed, we would respectfully suggest that no such rationale can be applied to the Parade/High Street. Indeed we would respectfully suggest that a premises operating to high standards with good security management CCTV and standards is an asset to the city centre.

We trust that fairly explains our observations, putting it more simply we would invite the authority to give consideration to either consolidating the Parade, High Street and Market Street between High Street and Exchange Road locations into one, or continuing to permit one/two SEV premises to operate, within the two locations.

If we can be of further assistance please don't hesitate to call.

Best wishes

Yours sincerely



WATFORD BOROUGH COUNCIL

SEX ESTABLISHMENT LICENSING POLICY

JULY 2020 – JULY 2023

Comments are invited on this document to:

Licensing
Watford Borough Council
Town Hall
Watford
Hertfordshire
WD17 3EX

Tel: 01923 278476
Email: licensing@watford.gov.uk

SEX ESTABLISHMENT LICENSING PART A

1. Preface

- 1.1 Watford Borough Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that we can licence sex shops, sex cinemas, and sexual entertainment venues in the Borough. In this policy, we refer to these as “sex establishments” unless we say otherwise.
- 1.2 We do not take a moral stand in adopting this policy. We recognise that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a licensing authority to administer the licensing regime in accordance with the law.
- 1.3 The 1982 Act and the 2009 Act can be viewed at www.legislation.gov.uk.
- 1.4 We initially consulted on this policy between 7 July 2010 and 21 September 2010 and it was approved by our Licensing Committee on 11 October 2010.
- 1.5 It was revised by the Committee on 15 June 2011 when one of the licensed sex establishments in the Borough ceased trading.
- 1.6 It was reviewed again by the Committee on 14 July 2014. No changes in the policy were proposed at this time.
- 1.7 It was reviewed again on 26 June 2017. No changes in the policy were proposed at this time.
- 1.8 A consultation was held on renewing the policy without making any changes between 4 and 21 June 2020. The policy was considered and approved by the Committee on 7 July 2020.
- 1.9 Consultation was conducted with existing licence holders in the Borough, the Police, the residents’ association for the town centre and Watford BID, and was made available to residents and other members of the public through a public consultation on the council’s website.
- 1.10 In developing this policy, 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' Code (set out under the Legislative and Regulatory Reform Act 2006) to carry out our activities in a way that supports those we regulate to comply and grow and particularly consider the impact of regulations on small businesses; and
- (c) the Provision 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.

2. The Borough of Watford

- 2.1 Watford Borough Council is situated in the county of Hertfordshire, which contains ten district councils in total. The council area has a population of 96,800 (ONS population estimate 2018) making it the third smallest in the county in terms of population but one of the highest in the country in terms of population density.
- 2.2 Watford Borough was granted a Royal Charter in 1922. Traditionally a market town, it has developed into an attractive sub-regional shopping centre and important centre for cultural and recreational facilities. Watford is at the centre of a sub-region serving approximately 500,000 people, living within a 20 minute travelling time and approximately 5,000,000 people living within a 45 minute travelling time' (Watford Borough Council Economic Development Strategy 2015-20).
- 2.3 Situated in the South West of Hertfordshire and located just 15 miles and less than 20 minutes from central London, with extensive links to the South East, the Midlands and the North of England, Watford is one of the best-connected locations in the UK. It boasts convenient access to the M1 and M25, two of the UK's key motorways; mainline rail connections to London Euston, the Midlands and the North of England with under 20 minutes travel time to central London with up to 10 trains per hour and six international airports within one hour.
- 2.4 Watford has major A-road links to adjoining areas and is also connected to the underground rail network with the Metropolitan Line terminus adjacent to Cassiobury Park. A branch line railway serves St. Albans Abbey.
- 2.5 The Borough covers an area of 2,142 hectares (8.3 sq. miles). Watford is a major town in the region. It is a sub-regional shopping destination, centered around the Intu Shopping Centre in the town centre, and has one of the most vibrant night-time economies in Hertfordshire. It has been awarded Purple Flag

status by the Association of Town Centre Managers for its management of the night-time economy. The purple flag status was renewed most recently in 2018. The intu Watford extension opened in Q4 2018 bringing an additional 400,000 sq. ft. of retail and leisure space to the town centre and attracting brands that are a first for Hertfordshire. This investment resulted in CACI positioning Watford as a top 20 national retail destination. Watford was traditionally a centre for the printing industry and now boasts the headquarters of a number of nationally known firms.

- 2.6 Potential operators should however refer to the Local Development Framework (through our Development Control Team or on our website at www.watford.gov.uk) for details about the local planning authority's approach to granting planning permission for developments where such activities may take place.
- 2.7 At the time of adopting this policy, the Council licences one sexual entertainment venue under the 1982 Act. This venue is also authorised under the Licensing Act 2003 to provide licensable activities under that Act.
- 2.8 Further information about the Borough is contained in the council's Corporate Plan, which can be obtained from the Council's offices upon request or downloaded from <https://www.watford.gov.uk>.

3 Commenting on licence applications

- 3.1 Unlike some other licensing regimes (such as for alcohol, entertainment, or gambling), a wide range of people can raise objections about sex establishment licences. The police are a statutory consultee for all applications.
- 3.2 Objectors should have something to say which is relevant to consideration of the statutory grounds for refusal that are set out in the 1982 Act.
- 3.3 We take the following approach to deciding applications:
 - (a) each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making;
 - (b) objectors can include residents'/tenants' associations, community associations, and trade associations. Councillors and MPs may also raise objections. Elected councillors may represent interested parties, providing they do not also sit on the Licensing Committee determining the application in question;
 - (c) we will give clear reasons for our decisions.
- 3.4 We will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions

on whether objections are frivolous or vexatious will be made objectively by our officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given a written reason. A report will be made to our committee determining the application (if appropriate), indicating the general grounds of the representation and the reason it was rejected.

- 3.5 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 3.6 Objections will be considered by a Licensing Sub-Committee of three Councillors. We give both applicants and objectors an equal opportunity to state their case in accordance with our protocol which is available from the Environmental Health Business Team.
- 3.7 Objections should ideally:
 - be made in writing (preferably in duplicate, unless submitted electronically)
 - be in black ink on single sides of A4 paper
 - indicate the name and address of the person or organisation making the representation (although this will not be disclosed to licence applicants)
 - indicate the premises to which the objection relates
 - indicate the proximity of the premises to the person making the objection. A sketch map or plan may be helpful to show this
 - clearly set out the reasons for making the objections.

4. Exchange of Information

- 4.1 The authority may from time to time exercise its' powers 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 in the area.
- 4.2 Details of applications and objections which are referred to a Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.
- 4.3 The names and address of objectors will not be disclosed to applicants or published in public reports in accordance with the Local Government (Miscellaneous Provisions) Act 1982. Such details will be made available to Councillors on the Licensing Committee.

5. Compliance and Enforcement

- 5.1 We recognise that sex establishments are not generally a source of crime or disorder. We will adopt a light touch inspection regime, carrying out simple inspections of premises no more than once a year unless exceptional circumstances require otherwise.
- 5.2 We will undertake enforcement work in a way consistent with the principles of the work of the Office for Product Safety and Standards and other central government bodies in its consideration of the regulatory functions of local authorities.
- 5.3 Enforcement work will also be consistent with the Regulators' Code (set out under the Legislative and Regulatory Reform Act 2006).
- 5.4 The council has signed up to the Hertfordshire Better Business for All Partnership Charter, a voluntary undertaking between Hertfordshire Regulatory Services and all local businesses, irrespective of size or resources. This means that we will undertake regulatory activity in a fair, helpful, transparent, proportionate and consistent way.
- 5.5 Our approach to enforcement is set out in our enforcement policies which are available on request.

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PART B

6. SEX SHOPS

6.1 Significant degree

Licences for sex shops are required where 18R films are sold, or where there is a “significant degree” of “sex articles” for sale. The phrase “sex articles” is defined in the 1982 Act as:

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 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 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.

6.2 The phrase “a significant degree” is not defined. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider:

- (1) the ratio of sex articles to other aspects of the business
- (2) the absolute quantity of sales
- (3) the character of the remainder of the business
- (4) the nature of the displays in the business
- (5) turnover generated by sales of sex articles
- (6) the format of any literature, publicity or advertising materials
- (7) other factors which appear to be materially relevant.

6.3 Relevant localities

There are some specific grounds for refusing sex establishment licences set out in paragraph 12 of schedule 3 to the 1982 Act. These include where the applicant is unsuitable to hold a licence, due to their age, domiciliary status or previous criminal convictions.

6.4 We can also refuse applications for new or renewed licences where:

- (1) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which we consider appropriate for that locality;
- (2) the grant or renewal of the licence would be inappropriate, having regard to
 - (i) the character of the relevant locality, or
 - (ii) the use to which any premises in the vicinity are put, or
 - (ii) to the layout, character or condition of the premises.

6.5 We recognise that different parts of our Borough have different characteristics, and numbers of sex shops appropriate for a locality are set out below:

Locality	Number of sex shops	Reason
The Parade, High Street and Market Street between High Street and Exchange Road	1	This consists of primary retail frontage and is suitable for this type of activity
Market Street between Exchange Road and Cassio Road	0	Although adjacent to the town centre, there are residential premises in and very close to Market Street, as well as other community premises such as religious buildings, charity enterprises, doctor's surgeries etc
Queens Road	0	This is a densely-built area with both retail activity and residential premises and the use of one retail unit would make one less retail unit available for other local needs
Lower High Street	0	There are a number of sheltered accommodation units in the Lower High Street which would make this area inappropriate

Local shopping areas	0	Local shopping areas serving local residents, and the use of premises as a sex establishment would otherwise deprive the community of a retail facility
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6.6 This table is not exhaustive and we would consider representations from applicants as to why our view should be changed about any particular locality. Where this is likely to affect existing licence-holders, we will give at least two months' notice in which they may make representations. In considering the characteristics of a locality we shall particularly take account of the density and proximity of:

- (1) residential accommodation
- (2) parks and children's play areas
- (3) other retail units (and their uses)
- (4) schools
- (5) communal buildings
- (6) alcohol or entertainment licensed premises
- (7) bus stops.

6.7 **Length of licence**

We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of a year at a time to provide certainty to those operating businesses.

6.8 **Waivers**

We do not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence, except in extreme circumstances considered by our full Licensing Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).

6.9 **Application form**

We have a standard application form, including public notices, which are available on request from our the Environmental Health Business team.

6.10 **Licence conditions**

We have adopted standard conditions for the operation of sex shops that are set out at appendix I. Where it is reasonable and necessary to do so, our Licensing Committee will impose additional proportional conditions on a licence. Wherever possible, these will be discussed in advance with operators by our licensing officers.

6.11 Fees

Our fees are set each year and details are available from the Environmental Health Business team and on our website at www.watford.gov.uk.

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PART C

7. SEXUAL ENTERTAINMENT VENUES

7.1 Relevant entertainment

Licences for sexual entertainment venues are required for “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.

7.2 “Relevant entertainment” is defined in schedule 3 (as amended by section 27 of the Policing and Crime Act 2009) as “any live performance or 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 an audience (whether by verbal or other means)”. An audience can consist of just one person, eg in a private booth.

7.3 In deciding whether entertainment is “relevant entertainment” we will judge each case on its merits, but will generally apply to:

- (1) lap dancing
- (2) pole dancing
- (3) table dancing
- (4) strip shows
- (5) peep shows
- (6) live sex shows

Adult entertainment not classed as “relevant entertainment” may still require licensing under the Licensing Act 2003.

7.4 Relevant localities

There are some specific grounds for refusing sex establishment licences set out in paragraph 12 of schedule 3 to the 1982 Act. These include where the applicant themselves are unsuitable, due to their age, domiciliary status or previous criminal convictions.

7.5 We can also refuse applications for new or renewed licences where:

- (1) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number the number which we consider appropriate for that locality;
- (2) the grant or renewal of the licence would be inappropriate, having regard to
 - (i) the character of the relevant locality, or
 - (ii) the use to which any premises in the vicinity are put, or
 - (ii) to the layout, character or condition of the premises.

7.6 We recognise that different parts of our Borough have different characteristics, and numbers of sexual entertainment venues appropriate for a locality are set out below:

Locality	Number of SEVs	Reason
Market Street between High Street and Exchange Road, The Parade, and the High Street	1	This locality is characterised by a number of retail premises, food premises and, for a number of years, a lap dancing club. It is recognised that the town centre has a diverse night-time economy, demonstrated in the award of the Purple Flag
Market Street between Exchange Road and Cassio Road	0	Although adjacent to the town centre, there are residential premises in and very close to Market Street, as well as other community premises such as religious buildings, charity enterprises, doctor's surgeries etc
Queens Road	0	This is a densely-built area with both retail activity and residential premises and the use of one retail unit would make one less retail unit available for other local needs
Lower High Street	0	There are a number of sheltered accommodation units in the Lower High Street which would make this area inappropriate
Local shopping areas	0	Local shopping areas serving local residents, and entertainment premises of this nature would be an inappropriate facility in a retail area
Kingswood Leisure Park	0	The leisure park has a cinema, restaurants and bowling alley; a sexual entertainment venue would be inappropriate given the family-orientated nature of these premises

7.7 This table is not exhaustive and we would consider representations as to why our view should be changed about any particular locality. Where this is likely to affect existing licence-holders, we will give at least two months' notice in which they may make representations. In considering the characteristics of a locality we shall particularly take account of the density and proximity of:

- (1) size of neighbourhood
- (2) impact of thoroughfares
- (3) residential accommodation
- (4) parks and children's play areas
- (5) other retail units (and their uses)
- (6) schools
- (7) communal buildings
- (8) alcohol or entertainment licensed premises.

7.8 **Length of licence**

We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of a year at a time to provide certainty to those operating businesses.

7.9 **Waivers**

We do not consider it would be appropriate to permit waivers from the requirements to hold a sexual entertainment venue licence, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

7.10 **Application form**

We have a standard application form, including public notices, which are available on request from the Environmental Health Business Team.

7.11 **Licence conditions**

We have adopted standard conditions for the operation of sex shops that are set out at appendix II. Where it is reasonable and necessary to do so, our Licensing Committee will impose additional proportional conditions on a licence. Wherever possible, these will be discussed in advance with operators by our licensing officers.

7.12 **Fees**

Our fees are set each year and details are available from the Environmental Health Business Team and on our website at www.watford.gov.uk. We charge separate fees for applying for a licence, renewing a licence, and for making major and minor variations to a licence.

7.13 Should you have any comments as regards this document please send them via e-mail or letter to:

Austen Young
Senior Licensing Officer
Community Protection
Watford Borough Council
Town Hall
Watford
Hertfordshire
WD17 3EX

Email: licensing@watford.gov.uk

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APPENDIX I
STANDARD CONDITIONS FOR SEX SHOPS

Standard Conditions for Sex Establishment Licence

Management of the Premises

1. The Licensee or some responsible person nominated by him (“the manager”) shall have personal responsibility for and be present on the Premises at all times the Premises are open to the public.
2. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
3. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council or the local trading standards authority.
4. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
5. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee’s control of the Premises.
6. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed.
7. No person under the age of 18 shall be admitted to the Premises and a notice to this effect, in accordance with condition 19, shall be displayed on the outside of the Premises.
8. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the Premises.
9. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.
10. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee’s 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 being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

Opening of the Premises

11. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:
Monday – Saturday 9 am – 6 pm
Sunday 11 am – 4 pm
12. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day or Good Friday.

Conduct of the Premises

13. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.
14. No sex articles or 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.
15. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
16. All sex articles and other things displayed for sale, hire, exchange or loan within the Premises shall be clearly marked to show the price being charged.
17. All printed material offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be displayed in a conspicuous position within the Premises.
18. No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

External Appearance

19. The holder of a sex establishment licence may exhibit on the outside of the Premises the name of the business and a notice, capable of being enclosed by a rectangle one square metre in area or such other size as agreed with the Council, consisting of the words 'Licensed Adult Establishment'.
20. The holder of a sex establishment licence shall exhibit on the outside of the Premises a notice, capable of being enclosed by a rectangle one square metre in area, of the times of opening and of the words 'No person under the age of 18 allowed. People who appear to be under the age of 21 will be required to show proof of their age.'
21. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 18 and 19 or otherwise approved by the Council in writing;
(b) No external loudspeakers may be installed.
22. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

State, Condition and Layout of the Premises

23. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
24. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
25. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the Premises shall be visible when persons are entering or leaving the Premises.
26. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
27. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
28. Alternations or additions, either internal or external, shall be not be made to the Premises without prior written consent from the Council.
29. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
30. 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.

Safety and Security

31. The Licensee shall take all reasonable precautions for the safety of the public and employees.
32. The Licensee shall institute steps to check the age of customers entering the shop who appear to be between the ages of 18 and 21 in order to ensure that they are not younger than 18.
33. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council.

Goods Available in Sex Establishments

34. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a Sex Establishment shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
35. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this is effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
36. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling on matters related to sexual

problems as may be published by the Family Planning Association and by such other similar organisations from time to time and in particular any such material related to AIDS. Free literature relating to the prevention of sexually transmitted diseases shall be given to each customer after purchase of a Sex Article. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

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APPENDIX II
STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

1. The Licensee must remain in personal control of the Premises at all times or nominate an individual in writing over the age of 18 with the authority to direct activities within the Premises.
2. Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
3. The Licensee must ensure that a suitable number of trained staff are employed to supervise the interior of the Premises (“floor supervisors”) whilst performances are being given under this licence.
4. No children under the age of 18 shall be admitted to the Premises. Customers who appear to be under the age of 25 must be asked to provide photographic proof of their age. The Licensee must provide prominent notices at each entrance to the Premises to this effect.
5. Performers shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
6. (a) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful or offensive manner.

(b) Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

(c) The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises and which may be offensive.

(d) The Licensee shall ensure to the Council’s satisfaction (including, where required, necessary planning or building control consents) that the interior of the Premises is not visible from the outside of the Premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from outside of the Premises.

7. The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst sexual entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
8. Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.
9. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
10. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.
11. Performers must dress fully at the end of each performance.
12. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
13. Performers must never be alone in the company of a Customer except in an area open to the public within the Premises.
14. The Licensee is to ensure a sufficient number of door supervisors are employed inside the Premises whilst sexual entertainment is provided to supervise the Performers and Customers.
15. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
16. Performers are never to be in the company of a customer except in an area open to the public within the Premises (excluding the toilets).
17. The Licensee must ensure that during the performance of a table dance:
 - (1) customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
 - (2) customers must remain seated during the entire performance of the dance;
 - (3) for the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - (4) Performers must not sit or straddle the customer;

- (5) Performers must not place their feet on the seats.
18. The Licensee must ensure that during performances to which this Licence relates:
 - (1) Performers may not perform any act that clearly simulates any sexual act;
 - (2) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (3) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (4) Performers must never intentionally touch the genitals or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals or breasts;
 - (5) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (6) Performers only perform nude or semi-nude dancing (of any description) within areas specified by the Council.
19. The Licensee must ensure that during performances to which this Licence relates:
 - (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
 - (2) Customers must remain appropriately clothed at all times.
20. The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of Hertfordshire Constabulary, and that any images are (a) retained for a period of at least 31 days and (b) made available on request to a police officer or authorised officer of the Council.
21. The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.