

## APPENDIX 4

### Responses and Comments

	Comment	Response	Reference
Supt Mat Shaer	Thank-you for sight of the consultation documents. I have reviewed them and find generally they appear fully appropriate. My feedback is suggested only to generate some reflection and is not in any way the official position of the West Midlands Police.		
	1. Could the SEV have reference to the granting/renewal of all licences being alive to the potential for exploitation or modern day slavery?	Agreed –	Report – Paragraph 4
	2. Could the SEV have reference to the licensees having to have well-being plans for their entertainment staff so that these can be inspected as part of the licensing granting/renewal?	Agreed	Welfare Policy
	3. Could/should there be guidance on the club rules that are mentioned? There would then be an opportunity to influence the clubs around key issues of concern to BCC?	Agreed	Operating Manual Codes of Conduct
	4. The opening times permitted by policy in regard to sex shops, are they regulated by statute? Otherwise they seem a little restrictive particularly with regard to evening opening?	Agreed	Regularised: Applicant to state hours on application
Cllr Gareth Moore	Thanks for including me in the consultation. I have no objections to all the Sex Establishments being covered by one policy and agree it would be a sensible way forward. I do think the cap on the number of lap dancing clubs should remain though as part of the policy, with maybe the number reduced to take into account closures.		Report – Paragraph 5
	We need to be tougher with enforcement and inspect more frequently to check that this sort of criminal activity is not taking place. I understand that there has been new legislation on modern slavery which came into force after the last renewal of the SEV policy, which I assume will be incorporated.		Report- Paragraph 4
	Greater enforcement should also apply to touting, which I think should be strengthened in the new policy		

resident of Birmingham City Centre and also serve as Secretary to the Birmingham City Centre Neighbourhood Forum	As a resident of the Birmingham City Centre (Centenary Plaza, Holliday Street) I would state that the existing 'SEV' establishments in the Westside Bid Area (Broad Street), generates a general impression which could easily lend itself to crime and disorder.	Shopfronts are strictly controlled by the Policy. They are relatively plain. It is unclear how this can cause the issues alleged.	
	Thus the operators of these establishments do give the impression of not being fit and proper persons to run a licensed venue, it is our understanding, as residents, that SEV's do not readily pay their bills to the city Council, their local business improvement district and their music licenses and have to be brought to task before making such payments.	These matters are already addressed by the Policy	
	Should it not be policy, for those with both influence and control over a SEV, to possess a strong positive credit history and those people/investors making representations on behalf of a SEV (and indeed those involved in running a SEV) should be able to demonstrate strong fiscal compliance in all their dealings (both personal and corporate).	Solvency of Licence holder/applicant and status of the Company are now included.	Policy (para48)
	Premises which are subject to firearm/serious attacks, claims of slavery or people trafficking, should immediately have their licenses suspended whilst the police investigate further, so as to assure the public/residents and the licensing committee that those premises are indeed fit for use.	If this indeed were the case, immediate sanctions are available under the LA 2003 or ASBCPA.	
	As a resident local to the Broad Street area, I urge Birmingham City Council to keep a 'cap' on SEV establishments in the area and should a licence be removed, for any reason, that the 'cap' be reduced to reflect this.		Report – Paragraph 5
Chris Neville Head of Licensing	include a definition of burlesque and whether we class it as sexual entertainment.		Within definitions.
resident of Sheepcote Street in the vicinity of Broad Street	Since the last policy review on these kinds of establishments, over 10 years ago, there have been material changes in the larger Broad Street area. As relates to the SEV policy there are two major factors.:	Policy was last reviewed 3 years ago.	

	There has been a huge growth in the numbers of residences built near Broad Street. This growth has moved increasingly closer to the street itself. The Jupiter development now extends to within 200m of the street. The two towers of Left Bank, currently under construction at the junction of Sheepcote Street with Broad Street, the planned Moda development opposite, and the Broadway Residencies at Five Ways are huge individual residential developments actually on the street. Thus, the Broad Street area has become more and more a residential area, and therefore increasingly inimical to the type of activity linked with SEVs.	Issues of locality and use are already addressed within the policy.	
	The existing SEV establishments in the Broad Street area have a sleazy appearance, thereby diminishing the impact of the rest of entertainment district.	The premises have always been required to have plain frontages, which could not be described as 'sleazy'	
	They have also spawned numerous stories of undesirable and possibly criminal activities, just as we residents feared they would. Although the only prosecutions we know of have related to establishments outside the immediate Broad Street area, the propensity of SEVs to attract such negative activities is nevertheless increased.	We know of no such prosecutions. Ref: Police crime data	
Westside BID	1. <b>Protection of staff</b> – With recent pertinent events reported in the media, and to some extent examined by the Licensing Committee, questions have been raised as to the protection of staff: Principally, there is suspicion that staff may be victims of illegal activity e.g. slavery Staff at one venue were potentially at risk after a firearm was discharged at a licensed premise	No evidence to suggest staff are at greater risk at Sex Establishments than any other premises type. No intelligence to suggest any firearms incident was linked to a Licensed premises (albeit, the frontage was damaged by the bullet – therefore leading to the crime record against the premises)	
	In the case of slavery, perhaps it could be considered that a licensing scheme for dancers/performers be undertaken to replicate the pioneering scheme for door staff. To ensure the protection of staff from criminal activity, there should be more supervision over the people who are in control or have influence over	Performer profiles are already required	Welfare Policy

	licensed premises.		
	<b>2. Protection of customers</b> – With the firearms incident, as it applies to staff, it would also apply to customers showing a further need to ensure those who have control or influence over premises are of the right character.	Again, No intelligence to suggest any firearms incident was linked to a Licensed premises (see above)	
	<b>3. Willingness and sobriety of customers when making significant financial exchanges</b> – Consideration needs to be given to customers making significant financial exchanges. Capturing the exchanges on CCTV is practiced by a venue in our area and is a welcomed practice that should be spread as a licensing condition. The use of CCTV should clearly capture the individual making payment, the venue in which they are making the payment and the member of staff responsible for processing the payment.	CCTV already required covering all areas.	All transactions must be on CCTV  Condition 56
	This should perhaps relate to any and all payments over £100. In consideration of the £100 rule, any payment broken up into smaller payments to avoid this rule should be considered a breach of licensing conditions (e.g. a payment of £300 broken into 3 separate payments of £100).	This appears to imply that payments under £100 need not be covered by CCTV –	All transactions must be on CCTV  Condition 56
	<b>4. Transparency of price lists with lists of typical spends and other expected costs such as champagne in the VIP room</b> – Price lists should be located at the entrance of all areas of the club where expenditures are incurred (e.g. bar, VIP room and dance area).	Price list requirements strengthened including addition of minimum font size etc	Conditions 52-54
	<b>5. Published door prices</b> – These must be reflective of reality and not designed to be a marketing benefit for the club. If e.g. door price is £10, all customers must pay £10. Discounts designed on a promotional basis should be ruled out.	Entrance Price to be displayed already – as for prohibition on discounts -It is unclear what this hopes to achieve. It is common practice in many other kinds of licensed premises	
	<b>6. More control over touts</b> – Historically, the department has shown little or no ability to control touts, which has led to complaints from hoteliers, whose guests include families and have received SEV flyers in the early evening. This also relates to massage parlours, where again the department seems unable to control and enforce on an ongoing basis.	Restrictions on promoting have been further clarified. Good evidence is required. Massage Parlours are not relevant in relation to this	Conditions 64-67

		consultation.	
	<b>9. External signage</b> – All external signage needs to be approved by the Licensing Committee.	This has always been a requirement	Condition 20
	Additionally, making the renewal of licence less frequent, perhaps every 2 years, could lead to more investment and higher quality premises	This would lead to LESS scrutiny. Licence terms are statutory maximum.	
	Finally, a report on SEVs could be submitted by an independent organisation such as a Business Improvement District or the Chamber of Commerce to committee and thereby to members, to offer a fully independent view of officers' actions over the last 12 months. This is following the recommendations of the "Government Review of Business Improvement Districts" of November 2014.	Noted	
West Midlands Police	The policy itself we do not feel in general needs to be revised, it is the interpretation and execution of the Policy by such premises that is key. The learning from the recent operation has concluded that the Policy is not deficient as it is impossible to set Policy for the alleged activities that were taking place at these premises, and it also showed that the execution of the policy by the premises was weak		
	There has been increased comparison recently between the Licensing Act 2003 and the SEV legislation, and indeed there is some natural cross pollination. With this in mind it may be prudent to include within the Policy a requirement for each premises to have a current and up to date Operations manual. This could be on the basis of objectives, such as safety for girls, customers, vulnerability for dancers and customers, duty of care for all, policies on pricing, advertising, reviewing actions of dancers, risk assessments for all these and anything else that could be affected within the premises, please note this is not an exhaustive list.	Agreed	Condition 23-24
	Clearly if a premises is engaging in serious criminal activity then there are powers for the Police to utilise, it would also be prudent to include what the process is for reviewing SEV license if there are breaches, and the reasons when it would be expected for a licence to be reviewed, such as those offences listed in Section 182 guidance under section 11.27.	Agreed	To follow
	If the enforcement aspect could be further enhanced to the point that if any premises that has an SEV is subject to an expedited review application under		

	section 53(a) of the Licensing Act 2003, then it is expected that in most circumstances a review of the SEV licence would follow, and the time line for this”		
Peter Adkins – On behalf of : Medusa, Scarlets, Cyclone/Mishkas, and others	General : There is no procedure for making minor variations (eg to plans) – although there does seem to be a fee scale for this. A procedure would be helpful to avoid the need for a full variation – it could save committee time.	There is no provision in law for a Minor Variation	
	General : Trading Standards letter to Michelle Monahan of Mischkas / Cyclone of 3 May (copy attached) in which they say they are looking at a no under 21 condition on all venues. It was queried whether this was legal / enforceable. What is the statutory grounds for an age restriction?	There is no evidence to support such a request. To restrict entry in this way would be unlawful.	
	General : Fee levels – these are reducing but how are they calculated ?	This can be addressed separately to the consultation although some clarification has been included	
	Condition 43 onwards : Advertising / Touting was very much under discussion as a hot issue. The old Conditions used to permit this if the applicants obtained prior approval from Advertising Standards Authority – this was removed a couple of years ago. There are already restrictions on advertising on the front of buildings, why cannot licence holders use similar logos on cards / fliers and hand them out in the vicinity of their localities in the same way as other venues etc?	Previous policy stated prior permission from the Committee would be required (not ASA). However, as Committee did not approve any of the requests it was felt more appropriate to remove the suggestion that permission could be sought. This in no way restricts an applicant or licence holder from seeking the removal or amendment of any condition at grant or renewal.	Conditions 64-67
	Para 4.9 Policy – evidence regarding paying business rates – in the light of recent decisions we would ask whether this is lawful?	The requirement to evidence this has been removed,	Policy- Paragraph 48

		however, the Committee reserves the right to take such matters into account should they be raised as an objection.	
	Para 5 Policy – fees – what is the refund policy (especially if part of fee relates to enforcement).	Hopefully this is clearer now. As the fees are separated into Application Fee and Licence Fee, there will be no need for refunds.	Policy- Paragraph 29-33
	Para 6.2 / 6.5 Policy – Objectors – whilst these may remain anonymous it was felt that applicants should be told the proximity of the premises to the person making the objection.	This is not unreasonable – although the objector has an absolute right to remain anonymous if they choose. Each case must be considered individually.	
	Para 7 Policy - There is no provision for hearings to come on within any set time. Where there are objections to a renewal these can often be head many months after the renewal date –can we look at hearings being held within 84 days?	Agreed. We will implement a timescale.	
	Para 8.1 Policy – how do Licensing intend to determine such issues as the viability of a business plan (is this irrelevant?) etc – also as regards the last bullet point ‘ compliance with other regulatory and taxation schemes’ we would repeat comment 5 above.	As with the business rates – the Policy has been amended to reflect that these may be issues which are identified through inspection or raised through objection which the Committee may choose to take into account.	Policy- Paragraph 48
	Para 15 Policy – revocations – there is no notice period specified for hearing. The recent Legs 11 hearing was set within 7 days. It is felt that there should be a minimum notice period of 21-28 days	The notice period and hearing windows etc will be clarified in hearing procedures to be published on the website..	
chair of the City	Since the last policy review on Sexual Entertainment Venues, over 10 years ago,	Policy was last reviewed 3	

Centre Residents' Forum	there have been material changes in the larger Broad Street area. As relates to the SEV policy there are three major factors:	years ago.	
	1. There has been a huge growth in the number of residences built in the vicinity of Broad Street and therefore the balance of the area has changed.	Issues of locality and use are already addressed within the policy.	
	2. The existing SEV establishments in the Broad Street area have a poor appearance, thereby diminishing the impact of the rest of the entertainment district.	See previous response	
	3. The operators allow an impression of not being fit and proper persons to run a licensed venue. It also appears their actions too have been demonstrative of not being fit and proper. They have spawned numerous stories of undesirable and possibly criminal activities, just as we residents feared they would. Although the only prosecutions we know of have related to establishments outside the immediate Broad Street area, the propensity of SEVs to attract such negative activities is nevertheless increased	We know of no such prosecutions. Ref: Police crime data	
	Therefore, it should be policy to consider <ul style="list-style-type: none"> <li>☐ the balance of property usage in an area.</li> <li>☐ that those with influence and control over a SEV have a strong positive, credit history. Investors and any one in a position to make representations on behalf of a SEV and involved with the running of SEVs should be able to demonstrate strong fiscal compliance, in all their dealings, both personal and corporate. Not to do so, in respect of statutory bodies, should be considered as grounds for refusing or removing a licence.</li> </ul>	Issues of locality and use are already addressed within the policy. Suitability of applicants is clarified to include solvency.	
	As residents, local to the Broad Street area, we urge Birmingham City Council to refuse to licence new SEVs in the area, and to refuse to renew existing licences when they become due.	Any decision must be taken in accordance with the provisions of the Legislation and must be capable of justification in those terms.	