

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

MONDAY, 23 JULY 2018 AT 14:00 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 APOLOGIES

To receive any apologies.

3 - 16

4 MINUTES

To confirm and sign the Minutes of the meeting held on 20 June 2018.

17 - 68

5 CONTROL OF SEX ESTABLISHMENTS - SEXUAL ENTERTAINEMENT
VENUW, ADULT WORLD, 1 HINCKLEY STREET, BIRMINGHAM, B4
5EB JULY 2018

Report of Acting Director of Regulation and Enforcement

69 - 70

6 SCHEDULE OF OUTSTANDING MINUTES

To consider the schedule of outstanding minutes.

7 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

71 - 88

7A **FOOD LAW ENFORCEMENT PLAN 2018/2019**

Report of the Acting Director of Regulation and Enforcement.

89 - 100

7B **HEALTH AND SAFETY LAW ENFORCEMENT PLAN (HSLEP) 2018/2019**

Report of the Acting Director of Regulation and Enforcement

8 **AUTHORITY TO CHAIRMAN AND OFFICERS**

Chairman to move:-

'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

BIRMINGHAM CITY COUNCIL

**LICENSING AND
PUBLIC PROTECTION
COMMITTEE
20 JUNE 2018**

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY 20 JUNE 2018 AT 1000
HOURS IN COMMITTEE ROOMS 3 AND 4
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Olly Armstrong, Bob Beauchamp, Nicky Brennan,
Nagina Kauser, Mike Leddy, Bruce Lines, Hendrina Quinnen,
Sybil Spence, Martin Straker-Welds and Simon Morrall.

NOTICE OF RECORDING/WEBCAST

- 1014 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

- 1015 There were no declarations of interest.

APOLOGIES

- 1016 Apologies were received from Councillors Narinder Kaur Kooner, Adam Higgs, Mary Locke and Neil Eustace for non-attendance.

The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.

APPOINTMENT OF LICENSING AND PUBLIC PROTECTION COMMITTEE

- 1017 The appointment by the City Council of the Committee and Chairman for the Municipal Year 2018/2019 was noted as follows:-

Labour Group (10)

Councillor Olly Armstrong
Councillor Nicky Brennan
Councillor Barbara Dring (**Chairman**)
Councillor Nagina Kauser
Councillor Narinder Kaur Kooner
Councillor Mike Leddy
Councillor Hendrina Quinnen
Councillor Sybil Spence
Councillor Martin Straker Welds

Conservative Group (4)

Councillor Bob Beauchamp
Councillor Adam Higgs
Councillor Bruce Lines
Councillor Simon Morrall

Liberal Democrat Group (1)

Councillor Neil Eustace

ELECTION OF DEPUTY CHAIR

Councillor Kauser nominated Councillor Leddy and seconded by Councillor Spence

- 1018 **RESOLVED:-**

That Councillor Mike Leddy be appointed as Deputy Chair of the Committee for the Municipal Year 2018/19.

FUNCTIONS, POWERS AND DUTIES

The following schedule was submitted:-

(See Document No. 1)

- 1019 **RESOLVED:-**

That the Committee's functions, powers and duties, as agreed by City Council and set out the attached schedule be noted.

DATES OF MEETINGS OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE

1020

RESOLVED:-

That meetings of the Licensing and Public Protection Committee be held on the following Wednesdays at 1000 hours in Committee Rooms 3 & 4 at the Council House, Birmingham.

2018

11 July
19 September
24 October
21 November
19 December

2019

16 January
13 February
13 March
11 April

LICENSING SUB-COMMITTEES 2018/2019

The work of Members previously on the Sub-Committees was acknowledged.

1021

RESOLVED:-

- (i) To note the membership of Licensing Sub-Committee's A, B and C for the Municipal Year 2018/2019 be noted;
- (ii) Each Sub-Committee comprise 3 Members (with a quorum of 3) and that authority be given for each Sub-Committee to determine matters relating to the Licensing Act 2003, the Gambling Act 2005, Hackney Carriage Licences Private Hire Licences and such other business as maybe referred to them by the Director of Regulation and Enforcement; and
- (iii) Any Sub-Committee Member may appoint a nominee (substitute) from their own party group on the Licensing and Public Protection Committee to attend a meeting in their place.

Licensing Sub-Committee A – Mondays (0930 hours)

Councillor Barbara Dring (Chairman)	Lab	Oscott Ward
Councillor Martin Straker Welds	Lab	Moseley Ward
Councillor Bob Beauchamp	Con	Perry Common Ward

Licensing Sub-Committee B – Tuesdays (0930 hours)

Councillor Nagina Kauser (Chairman)	Lab	Aston Ward
Councillor Nicky Brennan	Lab	Sparkhill Ward
Councillor Adam Higgs	Con	Highters Heath Ward

Licensing Sub-Committee C – Wednesdays (0930 hours)

Councillor Mike Leddy (Chairman)	Lab	Brandwood & Kings Heath Ward
Councillor Olly Armstrong	Lab	Northfield Ward
Councillor Neil Eustace	LD	Yardley East Ward

MINUTES

- 1022 The Minutes of the meeting held on 18 April 2018, having been previously circulated were confirmed as a correct record and signed by the Chairman.

SCHEDULE OF NOMINATIONS TO SERVE ON OUTSIDE BODIES.

The following schedule was submitted:-

(See Document No. 2)

Chris Neville, Interim Service Director, reported that as legal advice was being sought with regard to Members' sitting on sports grounds advisory groups, due to the safety aspect and associated issues, requested that the item be deferred until the next meeting.

Councillor Leddy highlighted that as pre-season meetings would shortly be taking place with the groups suggested as an interim arrangement, that names be submitted to sit on the groups until legal advice was received.

Following a brief discussion it was agreed by the Committee

- 1023 **RESOLVED:-**

That Members' that had been nominated last year remain on the sports advisory groups for the interim period until legal advice had been received;

That Councillor Leddy (Aston Villa Football Club) and Councillor Iqbal (Birmingham City Football Club) chair their respective groups due to the change in membership.

Aston Villa Football Club

Councillors Bob Beauchamp, Roger Harmer, Mike Leddy (Chairman) and Mike Sharpe.

Birmingham City Football Club

Councillors Zafar Iqbal (Chairman) and Mike Ward.

Warwickshire County Cricket Club

Councillors Robert Alden, Neil Eustace, Mahmood Hussain, Nagina Kauser, Ewan Mackey, Majid Mahmood (Chairman).

LICENSING AND PUBLIC PROTECTION – OUTTURN 2017/18

The following report of the Acting Service Director of Regulation and Enforcement and Chief Financial Officer was submitted:-

(See Document No. 3)

David Jones, Finance Manager, provided a comprehensive breakdown of the report and highlighted that written confirmation had now been received regarding the 1974 Inquest which would be funded through the Government, adding that it had taken a period of two years to reach this point in time.

The Chair referred to the lobbying that had taken place in order to prevent pressure being placed on the Committee's budget, adding that the positive response received had subsequently been circulated to all parties.

She thanked David and officers for all their hard work.

1024

RESOLVED:-

- (i) That the revenue outturn overspend of £0.309m as detailed in Appendix 1 be noted;
 - (ii) that the expenditure on grant funded programmes in Appendix 2 be noted;
 - (iii) that the position on Capital projects, as detailed in Appendix 3 be noted; and
 - (iv) that the position on reserves, as detailed in Appendix 4 be noted.
-

REGULATION AND ENFORCEMENT ANNUAL REPORT 2017/2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 4)

Chris Neville, Acting Director of Regulation and Enforcement made introductory comments to the report highlighting that it informed the Committee of the work that had been concluded over the last 12 months.

Mark Croxford, Head of Environmental Health, referred to Appendix 1 of the report and provided a brief presentation and subsequently responded to Members' comments.

He referred to the discussions that were ongoing with Amey and the work with pest control relating to placards which should transfer to Amey as it was their responsibility. With regard to tyre fitting bays, confirmed that the inspections had been based on risk assessment and that the majority were found to be compliant.

He provided a brief update regarding transit sites whereupon Tameside Drive should potentially become a shared site between settled tenants and also usage as a transit site, adding that there was the potential in the future for a further 2 sites.

He provided a brief explanation of where ground maintenance responsibility lay with regard to the residents and the City Council; referred to the joined up working relating to health and safety with West Midlands Police, Fire Service and City Council regarding Shisha bars, and agreed to provide the requested information to all members relating to domestic noise complaints and partnership working.

Sajeela Naseer, Head of Trading Standards, whilst providing a brief presentation made reference to Appendix 2 of the report and subsequently responded to the Chair and Members' comments.

She referred to the past issue relating to the Jewellery Quarter and provided a brief explanation as to why it was a low level priority due to the high level of compliance. She highlighted that the focus was more on safety and vulnerability and subsequently reported on the joined up working that was taking place, in order to tackle national and regional counterfeiting issues.

Sajeela explained the actions that were taken by the department at major events if brand holders raised concerns and the various areas of work that would be taking place with regard to preparing for the Commonwealth Games.

Joyce Amadedon, Head of Operations and Bereavement Services, provided a presentation by referring to Appendix 3 of the report. She detailed the various reasons as to why pressures on the service had increased and as a result of this staff was working smarter and harder to meet the business demands.

Emma Rohomon, Acting Head of Licensing, provided a presentation by referring to Appendix 4 of the report.

She referred to the reduction in stop checks and stated that the police had the power to stop motorists and not the department. With regard to benchmarking in terms of compliance rates with other local authorities, she confirmed that this had not taken place due to the terms of the license varying from other local authorities. She added that in terms of the operators not complying with their conditions, they would be dealt with in the same way as anybody else would be dealt with for non-compliance.

She referred to the number of expedited reviews and confirmed that it was the decision taken by the police on how they dealt with premises, highlighting that the department would continue to discuss with the police the most appropriate form of action taken for the premises. She referred to the recent reinstatement of the responsible authorities working group and explained the way in which they worked in order to prevent issues escalating, adding that the department maintained a good working relationship with colleagues in all of the responsible authorities.

Joyce Amadedon, Head of Operations and Bereavement Services, made introductory comments to Appendix 5 of the report.

In response to the Chair's comment, she referred to the new portal system which allowed doctors at the hospital to enter death notifications straight onto the system which in turn would be fed directly to the Coroner, adding that it was a more efficient way of working.

Chris Neville, Acting Director of Regulation and Enforcement provided a brief overview of the work undertaken by the England Illegal Money Lending Team by referring to Appendix 6 of the report.

He highlighted that when prosecutions took place against loan sharks the cases were publicised by the media which included; newspapers, radio and television, adding that it was an important route for the team to use in highlighting the dangers of getting involved with loan sharks.

The Chair highlighted that the proceeds of crime monies was ring-fenced and circulated back into the communities.

1025

RESOLVED:-

That the report be noted.

At this juncture the Chair agreed to vary the order of the agenda.

MODERNISING CONSUMER MARKETS CONSUMER GREEN PAPER

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 5)

Sajeela Naseer, Head of Trading Standards, provided a comprehensive breakdown of the report.

The Chair put the recommendations to the meeting and following a show of hands it was 9 in favour and 2 abstentions.

Upon further consideration, it was

1026 **RESOLVED:-**

That the report be noted.

That a formal response to the consultation document “Modernising Markets” Green Paper be submitted to the Government based on the proposed responses to questions 9, 15 and 16 which are directly relevant to the work of Birmingham Trading Standards and which are contained in the Appendix 1 to this report.

LICENSING AUTHORITY POLICIES AND PROCEDURES DELGATIONS

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 6)

Emma Rohomon, Acting Head of Licensing, provided a comprehensive breakdown of the report. She confirmed that the demand survey was carried out and the moratorium did stay in effect and the policy was revised in 2014 and is still currently under review.

The Chair put the recommendations to the meeting and all were unanimously agreed:-

1027 **RESOLVED:-**

That the Committee noted the policies approved by the City Council:

- Related to the Gambling Act 2005 and approved in 2016
- Regarding Sexual Entertainment Venues and approved in 2014;
- Relating to the Licensing Act 2003 and approved in 2015.

That the Committee approved the Hackney Carriage and Private Hire Policy (including delegations) at Appendix 1.

That the Committee approved the General Licensing Policy (including delegations) at Appendix 2.

PROPOSAL FOR COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVING LICENCE

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 7)

Shawn Woodcock, Licensing Operations Manager provided a comprehensive breakdown of the report.

Chris Neville, Acting Director of Regulation and Enforcement highlighted that one of the reasons for the report was in recognition of the greater impact the clean air zone would have on the hackney carriage drivers, and if they decided not to invest in new expensive vehicles, it allowed them to transition into private hire at a reduced cost for them.

The Chair put the recommendations to the meeting and following a show of hands (7 in favour) the following was carried:-

1028

RESOLVED:-

That officers be instructed to devise a timeline for introduction of dual licenses and look into the amendments to policies and licence conditions which would be necessary to accommodate the changes.

CONSULTATION ON PRIVATE HIRE VEHICLE SIGNAGE

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 8)

Shawn Woodcock, Licensing Operations Manager whilst providing a comprehensive breakdown of the report circulated to the Committee a copy of the consultation document. He confirmed that the survey took into account disability and that any groups representing disability were identified by the way for form had been completed. He further confirmed that the consultation was advertised through trade meetings and the city council's own website.

The Chair highlighted that all drivers should be aware of what was taking place and keeping up to date of what was happening in their industry.

The Chair put the recommendation to the meeting and following a show of hands (2 abstentions) the following was carried:-

1029

RESOLVED:-

The Committee agreed that an officer and members working group be set up to look at the issues raised and to consider the changes which may be appropriate to make to the existing signage requirements.

The Chair highlighted that a working group would be set up and suggested to Members that if they wished to partake to advise Emma.

PROPOSED AMENDMENTS TO THE KNOWLEDGE TEST FOR PRIVATE HIRE DRIVERS

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 9)

Shawn Woodcock, Licensing Operations Manager provided a comprehensive breakdown of the report.

Emma Rohomon, Acting Head of Licensing, emphasised that the proposed changes to the knowledge test would in no way lower the standard of drivers and instead it was a different way of administering the test in a more efficient and timely manner.

In response to concerns from Representatives, TOA, Chris Neville, Acting Director of Regulation and Enforcement believed that the recommendations would not impact on applicants' abilities to speak English because they would have to understand the questions that were spoken to them, and to read and understand the answers they were submitting.

Shawn confirmed that the removal of the A to Z test would not affect driving ability and the drivers would still be tested on legal requirements and that any drivers not meeting these requirements would not be licensed. He highlighted the differences between drivers that were licensed in Birmingham and worked for an operator based in Birmingham and those that were based outside of the city.

At this juncture, Chris Neville briefly explained the distinction between hackney carriage and private hire drivers and how they both operated differently.

Following further concerns from Representatives, TOA, with regard to issues associated with the Deregulation Act 2015, Chris Neville highlighted that they were doing as much as they could to highlight to the Government the problems the Act was creating on a daily basis.

The Chair reiterated that they would continue lobbying the Government.

The Chair put the recommendations to the meeting and all were unanimously agreed:-

1030

RESOLVED:-

That the Committee approved the recommended changes to the format of the Knowledge Test for Private Hire Drivers.

Remove the A to Z test.

Introduce multiple candidate testing

Change all questions to a multiple choice format.

Allow changes to be introduced immediately.

At this juncture at the request of the Chair, a 10 minute comfort break ensued.

**DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES IN
THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADES including
DRUGS TESTING POLICY**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 10)

Emma Rohomon, Acting Head of Licensing made introductory comments to the report.

The Chair put the recommendations to the meeting and all were unanimously agreed:-

1031 **RESOLVED:-**

That the Committee recognised the Institute of Licensing Guidance as best practice guidance, with a view to implementing the proposals therein.

That all licence applicants and existing licence holders will be required to sign up to the Disclosure and Barring Service Update Scheme.

That all applicants for the grant or renewal of Private Hire Operator or Vehicle Proprietor Licence be required to produce a Basic Disclosure Certificate for consideration.

That Officers produce a Draft Drug Testing Policy as per 7.3 of this report.

That the Coroner should be notified of the matters arising from this report in accordance with the requirements of the Notice at Appendix 1.

FIXED PENALTY NOTICES ISSUED MARCH AND APRIL 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 11)

Mark Croxford, Head of Environmental Health made introductory comments relating to the report and highlighted the cases therein.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

1032 **RESOLVED:-**

That the report be noted.

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING MARCH AND APRIL 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 12)

Emma Rohomon, Acting Head of Licensing made introductory comments relating to the report and highlighted some of the cases therein.

The Chair thanked Emma for reporting.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

1033 **RESOLVED:-**

That the report be noted.

ACTIONS TAKEN BY THE CHAIR OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE DURING APRIL 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 13)

Emma Rohomon, Acting Head of Licensing made introductory comments relating to the report and highlighted some of the cases therein.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

1034 **RESOLVED:-**

That the report be noted.

PROSECUTIONS AND CAUTIONS – MARCH & APRIL 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No.14)

1035 **RESOLVED:-**

That the report be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:-

(See Document No.15)

Chris Neville, Acting Director of Regulation and Enforcement, updated the dates for which reports would be forthcoming in relation to various Outstanding Minutes.

It was -

1036 **RESOLVED:-**

That Outstanding Minutes be continued.

OTHER URGENT BUSINESS

1037 **Training Event – Wednesday, 11 July 2018 at 1000 hours in Committee Rooms 3 & 4**

The Chair reported that the July Committee Meeting would not be taking place and instead Members were invited to attend the above-mentioned training event.

AUTHORITY TO CHAIR AND OFFICERS

1038 **RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

The meeting ended at 1355 hours.

.....
CHAIRMAN

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

23 JULY 2018
LADYWOOD

**CONTROL OF SEX ESTABLISHMENTS - SEXUAL ENTERTAINMENT VENUE,
ADULT WORLD, 1 HINCKLEY STREET, BIRMINGHAM B5 4EB**

1. Summary

- 1.1 Birmingham City Council's Sexual Entertainment Venue Policy became effective from 1st November 2014.
- 1.2 An application has been received for the grant of a Sexual Entertainment Venue (SEV) Licence from Sunset Novelties Limited in respect of premises known as Adult World, 1 Hinckley Street, Birmingham B5 4EB.
- 1.3 At the time of writing this report there are 6 SEV licences granted to premises within Birmingham 5 of which are located within the area bounded by the ring road (A4540).
- 1.4 As stated in Birmingham City Council's SEV Policy the Council considers that the part of the City which falls within the ring road (A4540) is an area which is appropriate to have an upper limit guide on the number of SEV's the appropriate upper limit being eight.

2. Recommendation

- 2.1 That Committee consider and determine the application for the grant of a Sexual Entertainment Venue licence in respect of Adult World, 1 Hinckley Street, Birmingham B5 4EB having considered any objections that may have been received and having regard to the options contained in paragraph 6.1 of the report.

Contact Officer: Emma Rohomon, Head of Licensing (Acting)
Telephone: 0121 303 9780
E-mail: emma.rohomon@birmingham.gov.uk

Originating Officer: David Kennedy, Principal Licensing Officer

3. Background

- 3.1 An application has been received from Sunset Novelties Limited, for the grant of a Sexual Entertainment Venue Licence in respect of the premises known as Adult World, 1 Hinckley Street, Birmingham B5 4EB. A copy of the application is attached at Appendix 1.
- 3.2 The applicant has submitted a photograph showing the proposed external scheme of the premises. A copy of which is attached at Appendix 2.
- 3.3 The proposed hours of operation being 09:30am to 10:00pm Monday to Saturday and 11:00am to 4:00pm Sunday.
- 3.4 The nature of the entertainment as described on the application form is lap dancing and stage strip shows (every 2 hours). The applicant has confirmed the relevant entertainment will involve full nudity.
- 3.5 The applicant has submitted a copy of Adult World's House Rules. A copy of which is attached at Appendix 3.
- 3.6 A plan of the premises detailing where the Sexual Entertainment will take place is also part of the application procedure. A copy of which is attached at Appendix 4.
- 3.7 It should be noted that Sunset Novelties Limited already hold Sex Shop and Sex Cinema licences in respect of the premises known as Adult World, 1 Hinckley Street, Birmingham B5 4EB.

4. Consultation

- 4.1 The applicant was required to advertise the application in a local newspaper, post a notice outside of the premises for a period of 21 days and serve a copy of the application to the Chief Officer of Police.
- 4.2 In addition upon receipt of an application the Licensing Section consults with the West Midlands Police and the Licensing Enforcement Teams and also notifies the appropriate Ward Councillors.
- 4.3 A representative of the Licensing Enforcement Team has confirmed that they have no objections to the grant of an SEV licence subject to the large illuminated sign of a lady above the front door being removed in order to comply with the Council approved standard conditions. A copy of the Licensing Enforcement Officer report is attached at Appendix 5.
- 4.4 Since conducting the site inspection the Licensing Enforcement Officer has received confirmation from the applicant that they have now removed the large illuminated sign of a lady from above the front door.
- 4.5 West Midlands Police have not responded to the consultation.

- 4.6 A copy of the Council approved standard conditions for Sexual Entertainment Venue licences are contained within the current Sexual Entertainment Venue policy a copy of which is attached at Appendix 6.
- 4.7 Location plans, including a plan showing the proximity of the other existing licensed Sexual Entertainment Venues to the premises, are attached as Appendix 7.
- 4.8 The applicant and the Licensing Enforcement Officer have been invited to attend the hearing in order to respond to any questions members may have.

5. Matters for Consideration

- 5.1 When considering an application for the grant of a licence, the Committee should have regard to any observations submitted to it by the Chief Officer of Police and any objections that the Licensing Authority has received from anyone else within 28 days of the date of the application.
- 5.2 Subject to any new information produced at the hearing it does not appear that any of the mandatory grounds of refusal apply to the application currently due for consideration. For example, a licence shall not be granted to a person who is under the age of 18 or who has had a previous application for the same premises refused within the last 12 months.
- 5.3 The only discretionary grounds upon which the Council may refuse an application are those grounds specified in Schedule 3 paragraph 12(3) of the Local Government (Miscellaneous Provisions) Act 1982 as amended:
- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or any other reason;
 - b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by, or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
 - c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - d) that the grant or renewal of the licence would be inappropriate, having regard:
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

6. Options Available

6.1 The Committee may:

6.1.1 Grant the application as it stands in which case the licence will be renewed subject to the Council approved Standard Conditions.

6.1.2 Grant the application as it stands subject to the Council approved Standard Conditions unless they have been expressly excluded or varied and/or other Specific Conditions or restrictions that the Committee deem reasonable, necessary proportionate and justifiable.

6.1.3 Refuse the application on one or more of the grounds as outlined in paragraph 5.3 above.

7. Right of Appeal

7.1 An applicant has a right of appeal to the Magistrates Court against decisions to refuse to grant, renew, vary or transfer a licence, the imposition of conditions or the revocation of an existing licence.

7.2 It should be noted that although no right of appeal lies against a decision made on the discretionary grounds set out in paragraphs 5.3(c & d) above, the applicant could challenge a refusal on the aforementioned grounds by way of a judicial review.

8. Implications for Resources

8.1 A fee of £6,864 is payable for the grant of a Sexual Entertainment Venue licence, if the application is subsequently refused then 50% of the fee will be refundable.

8.2 In the event of an appeal hearing, the Magistrates power to award costs derives from Section 64 of the Magistrates Courts Act 1980 which entitles them to make such order as they think just and reasonable.

9. Implications for Policy Priorities

9.1 The application that is the subject of this report should be considered in accordance with the published Birmingham City Council Sexual Entertainment Venue Policy.

10. Public Sector Equality Duty

10.1 No specific implications have been identified.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

SEX ENT 1.5

Fair Processing Statement – Any personal data held by Birmingham City Council in relation to your application for a Licence to use a premises, vehicle, vessel or stall as a Sexual Entertainment Venue, will be held in full compliance with the legal obligations as set out in the Data Protection Act 1998. This is in accordance with the Council's Privacy Policy; a copy is available on the Council's website: www.birmingham.gov.uk/privacy. To protect the public fund we may also use the information you have provided on this form to prevent and detect fraud. We may share this information for the same purposes with other Council Departments and organisations for example, other councils and the police.

BIRMINGHAM CITY COUNCIL

SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Application for a Licence to use any Premises, Vehicle, Vessel or Stall as a Sexual Entertainment Venue

All questions must be answered, save where otherwise stated. If relevant questions are not answered, the application will be deemed incomplete and will be returned to the applicant.

Section 1

Application details:

Is this licence for the: Grant ☒ Renewal ☐ Transfer ☐

Is the application made by: an individual ☐ a partnership or other unincorporated body ☐
a company or other corporate body ☒

Section 2

Answer only if Applicant is an individual

What is the full name of the individual?

Permanent Residential Address

Any former names

Date of Birth Place of Birth

Date Became Resident in the UK or E.U Member State

National Insurance Number or E.U Member State Equivalent

Telephone Number (during normal office hours)

Email Address:

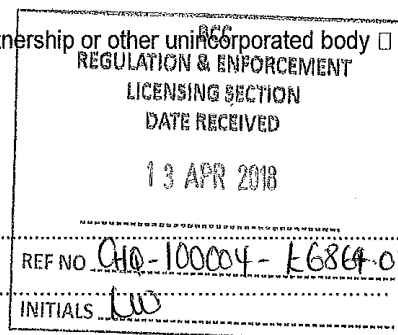
Name and address to which correspondence to be sent (if different from above)

Has the applicant a financial interest in the business which is the subject of this application?

Yes ☐ No ☐ If "yes" to what extent

Is the whole business owned by the applicant?

Yes ☐ No ☐



Section 3***Answer only if the Applicant is an unincorporated body or a partnership***

Full Name of Applicant

.....

What are the names of the applicant's partners? Please complete the table below:

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence Throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member state

Are there persons responsible for the management of the Applicant other than the partners? If so state their names.

.....

.....

.....

Please confirm if the whole of the business is owned by the applicant? Yes ☐ No ☐

Section 4.**Answer only where the applicant is a company or other corporate body**What is the name of the Applicant? SUNSET NOVELTIES LTDHas the Applicant previously been known by any other name and if so what name?
.....If the Applicant is a company, what type of company is it (e.g., public or private, limited by share or guarantee, etc.)?
PRIVATE LTD COMPANYWhat is the registered number of the Applicant? 07697017What is the registered office address? 8 ASTHILL CROFT, STYVECHALE,
COVENTRY, CV3 6HLIn which country is the company incorporated? ENGLANDWhat is the date of incorporation of the company? 07/07/2011

Please complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body.

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member State
MICHELLE PATRICK			

SEX ENT 1.5

Does the Applicant use any other trading names? If so, please state the trading name(s).

ABOUT WORLD

What is the Applicant's trading address?

1 HUNCOLLEY STREET,
BIRMINGHAM, B5 4EB

Please confirm if the whole of the business is owned by the applicant? Yes ☒ No ☐

Section 5

All Applicants

Please give details of the person (if any) who is to be responsible for the management of the premises in the absence of the licence holder:

First Name... MICHELLE ... Surname... PATRICK ...

Former Name (if any) ... MARILYN ...

National Insurance Number or E.U Member State Equivalent...

Permanent Address: ...

Date of Birth: ... Place of Birth...

Has any person named at any place in this application been associated in any way with any other application for a licence for a sex establishment? Yes ☒ No ☐

If "yes" give full details... I HAVE A SEX SHOP LICENCE AND A
SEX CINEMA LICENCE

Section 6**Premises details:**

Is this application in respect of: Premises ☒ Vehicle ☐ Vessel ☐ Stall ☐

Is the premises, vehicle, vessel or stall in use for sexual entertainment at the date of this application? Yes ☒ No ☐

If the answer is yes, state the name and address of the person or body currently operating the business... SANSEI NOVELTIES LTD

What is full address of the premises for which a licence is sought?

1 HINCKLEY STREET, BIRMINGHAM, B5 4EB

If the application is in respect of a vehicle, vessel or stall, please state where it is to be used as a sexual entertainment venue.....

Under what name is, or will the premises be known? ADULT WORLD

Is the whole of the premises to be used under the licence? Yes ☒ No ☐

If no, please state:

a) which part of the premises is to be used for the purposes of the licence

b) the use to which the remainder of the premises are to be put

c) the names of those responsible for the management of the remainder of the premises

If the Applicant's interest in the premises is a leasehold one, please state:

a) Head-lease ☒ Sub-lease ☐

b) the name and address of the landlord and of the superior landlord where applicable

DTZ 1 COMCRE SQUARE, BIRMINGHAM, B4 6AJ
AGENTS FOR THE HOWARD MUSE TRUST

c) the length of the unexpired term 4 YEARS

Section 7.**Proposed operation times and activities**

Give the times it is proposed to operate the Premises for the purpose of this Licence;

<u>Day</u>	<u>Start</u>	<u>Finish</u>	<u>State any seasonal variations or non standard timings where you intend to use the Premises, which are different to those listed in the column on the left.</u>
Monday	9.30 am	10 pm	
Tuesday	9.30 am	10 pm	
Wednesday	9.30 am	10 pm	
Thursday	9.30 am	10 pm	
Friday	9.30 am	10 pm	
Saturday	9.30 am	10 pm	
Sunday	11 am	4 pm	

Please give full details of the nature of the relevant entertainment e.g. lap-dancing, pole-dancing, stage strip show etc

STAGE STRIP SHOW EVERY 2 HOURS
LAP DANCING

Please confirm if the relevant entertainment involves full nudity ☒ Yes ☐ No

Section 8.**If the application is for the Transfer of a Premises Licence**

Name of current Premises Licence Holder

Please give the reason/s for the transfer application

Section 9.

Has the Applicant or any persons named in this form been convicted of a criminal offence whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details of unspent convictions below:

Convictions:

Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

Has the Applicant or any persons named in this form been cautioned whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details below:

Cautions:

Forenames	Surname	Former Name (if any)	Offence	Date of Caution	Where caution administered

SEX ENT 1.5

Has any person or the corporate or unincorporated body referred to in this application: -

Been disqualified from holding a licence for a sex establishment?	NO
Been refused the grant / renewal / transfer of a licence for a sex establishment?	NO
Been the holder of a sex establishment licence when that licence has been revoked?	NO
Been associated in any way with any other application for a sex establishment licence?	YES
If 'Yes' to any of the above please provide details:	
<p>I HOLD A SEX SHOP LICENCE AND A CINEMA LICENCE.</p>	

Is there any information in this application which you would **not** wish to be seen by members of the public?

Yes ☐ No ☒

If yes, state which information and the reasons why you would **not** wish it to be seen

.....

.....

.....

Is there any further information which the Applicant would wish the Council to take into account when considering this application?

NO

.....

.....

.....

(If necessary, please continue on a separate sheet)

SEX ENT 1.5

Please read the checklist below and tick to confirm you have enclosed all of the required information/documents;

I have made or enclosed payment of the fee ☒

Please check the following link for details of the cost of your application:-

<http://www.birmingham.gov.uk/licensingfeesandcharges>

I have enclosed a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority ☒

I have enclosed a copy of the "club rules". Such club rules must contain the required conduct of performers which shall include for example, no sex acts, no giving or taking phone numbers (including exchange of business cards). ☒

I have enclosed a scheme showing the exterior design for consideration by the Licensing Authority ☒

I understand and agree that I must send a copy of my completed application to the Chief Officer of Police no later than seven days after the date of the application. I also understand that I must produce evidence of due service of the Notice of Application upon the Chief Officer of Police as required by paragraph 10(14) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒

I understand that I must now advertise my application on or near the Premises for 21 days starting with the date of the application. ☒

I understand that I must advertise the application in a local newspaper within seven days after the date of the application and that a copy of the notice of application which has been published must be given to the Licensing Authority in accordance with paragraph 10 (8) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒

DECLARATION: I declare that the details in this application are true to the best of my knowledge and belief and acknowledge that if there are any omissions or incorrect statements of a serious nature this may result in the application being refused. I further declare that I have read and agree to abide by the conditions of Licence for a Sexual Entertainment Venue made by Birmingham City Council in accordance with Section 2 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should my application be granted.

APPLICANTS ARE INFORMED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE, MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE, ON SUMMARY CONVICTION, TO A FINE NOT EXCEEDING £20,000.

Signature

Name of Signatory MICHELLE PATRICK

Designation of Signatory DIRECTOR

Date 10/4/18



ADULT WORLD HOUSE RULES Staff /Performers Copy

PERFORMER / STAFF

Stage Name.....

Real Name.....

Address.....

.....

.....

Phone.....

Mobile.....

Emergency contact.....

Name.....

Relationship.....

Reference.....

Photo ID attach here

Sunset Novelties Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 07697017

ADULT WORLD HOUSE RULES Staff /Performers Copy

PERFORMANCES

1. No striptease or nude dancer may perform on the premises until such time as photographic proof of ID, showing their date of birth, is provided confirming that the dancer is over the age of 18 years.
2. Striptease and nudity shall only be performed in those areas of the premises which are advised by the Management
3. Striptease entertainment shall be given only by performers and customers shall not be encouraged or permitted to participate.
4. Customers must remain fully clothed at all times. Performers shall not remove customer clothing at any time.
5. Striptease and nude performers are to re-dress at the conclusion of each performance and are to remain fully clothed whilst walking around the premises or when acting in the capacity of hostess.
6. Striptease and nude performances are provided on stage approximately in two hourly intervals or in between film schedules.
7. Private striptease and nude performances are provided in the designated private dance room located on the ground floor of the premises and shall be to customers seated on fixed seating within this area only. No fastening or blocking of the private dance room door is allowed.
8. The only areas proposed for striptease/ full nudity shall be on the stage and in the private dance room where the performance is not visible from the retail area.
9. There shall be no dances or strip teases performances off stage to customers seated in the cinema or stage show seating area, or to standing customers in the retail area.
10. There shall be no striptease performances to customers in the DVD preview booths.
11. There shall be no physical contact between performers and customers except of the placing of monies or tokens in the hands of the performer at the beginning or conclusion of the performance.
12. The changing room located on the first floor of the premises shall only be accessed by performers during trading hours. Customers, friends or family are strictly prohibited at all times.
13. When tableside, striptease or nude performances are taking place, no performer shall dance with or towards another performer, and shall make no physical contact with another performer.
14. The management operates a zero tolerance policy to the supply or use of drugs and to the consumption of alcohol by performers during trading hours.
15. Performers shall not encourage customers to throw money at or otherwise to give gratuities to performers.

Sunset Novelties Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 07697017

ADULT WORLD HOUSE RULES Staff /Performers Copy

16. The Code of Conduct for striptease or nude performers shall be lodged with the Authority responsible for licensing. All performers shall sign the Code of conduct as agreed by the Police in their proper name acknowledging that they have read and understood, and are prepared to abide by the said Code of Conduct, and copy so signed be retained by the licensee and shall be readily available for inspection by the Police and all authorised persons upon reasonable request.
17. There shall be no simulated sexual acts between performers of striptease.
18. Striptease performances shall only be given by employed performers and no member of the public or staff shall be permitted to participate in the performances in any way or at any time.
19. Performers are expected to clean, fresh, presentable and change outfits throughout the shift, the licensee shall provide a suitable area where the performers may change and shall provide within the room/area a shower and wash hand basin with a hot and cold water supply. All staff are responsible for keeping the changing area tidy.
20. Staff and Performers not allowed bringing their own alcohol onto the premises.
21. Striptease and nude performers may never give out or accept personal information, including telephone numbers, email addresses, addresses business cards or other contact details or any other information from any customers.
22. Cash must never change hands in the private dance rooms this must be done via the counter
23. The private lap dancing room will have adequate lighting to ensure the safety of dancers and to ensure that members/guests and performers are adhering to the Club rules at all times.
24. Do not have friends or partners in the premises whilst you're working.
25. Do not date other members of staff.
26. Behaviour such as swearing and fighting will not be tolerated.
27. Anybody found to be possessing or taking drugs will be instantly dismissed.
28. Performers are not allowed to use their mobile phones while working.
29. Smoking is not permitted inside or outside within three meters of the entrance. You must be appropriately clothed down to the knee if you must smoke outside the premises.
30. All performers are self employed this means you are responsible for any Tax and National Insurance contributions you may have to pay. It is also your responsibility to register for VAT if your earnings from all sources are in excess of the vat registration threshold limit.

Sunset Novelties Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 07697017

ADULT WORLD HOUSE RULES Staff /Performers Copy

Any staff or performers found to be breaking or ignoring these rules could be fined suspended or instantly dismissed.

I have read and understand the terms and conditions. It is my responsibility to follow these rules and I understand any consequences that may occur if they are broken.

Signed.....

Print real name.....

Print stage name.....

Date.....

Sunset Novelties Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 07697017

ADULT WORLD HOUSE RULES Staff /Performers Copy**DISCLAIMER**

I am the person detailed below and I have signed this disclaimer to say that I am working at Adult World on a self employed basis.

I agree to pay the house fee set by Adult World for the use of the premises.

I take full responsibility for Tax and Insurance contributions owed on any money I will earn whilst working on these premises.

I am also aware that there are CCTV cameras fitted in the premises including the staff amenity area for the deterrent of drug abuse and theft.

I agree to work under these conditions.

Real name.....

Stage name.....

Address.....

.....

.....

Date of birth.....

Contact Number.....

Tax reference code.....

National insurance number.....

Name of Company.....

.....

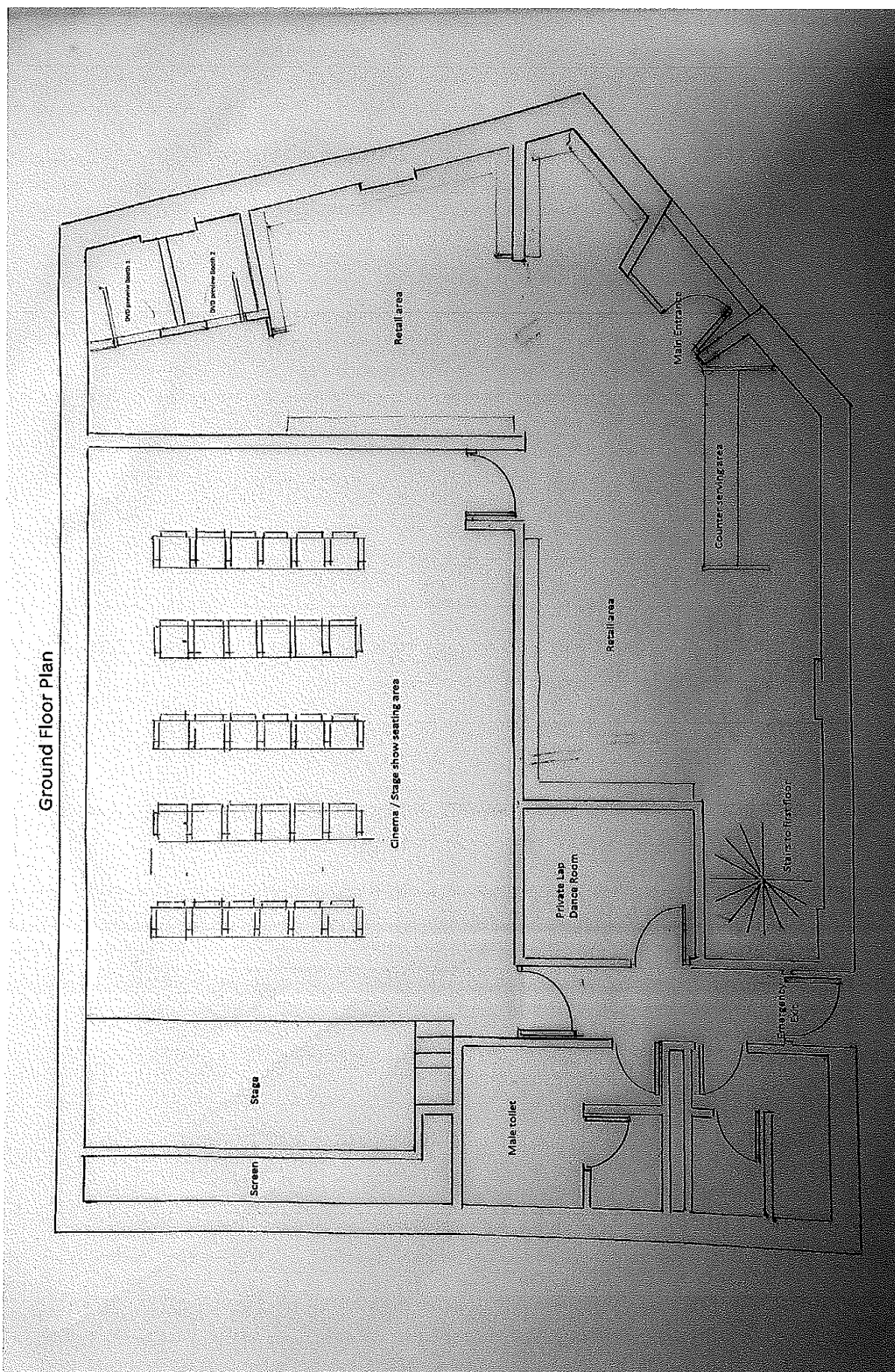
Accountant.....

.....

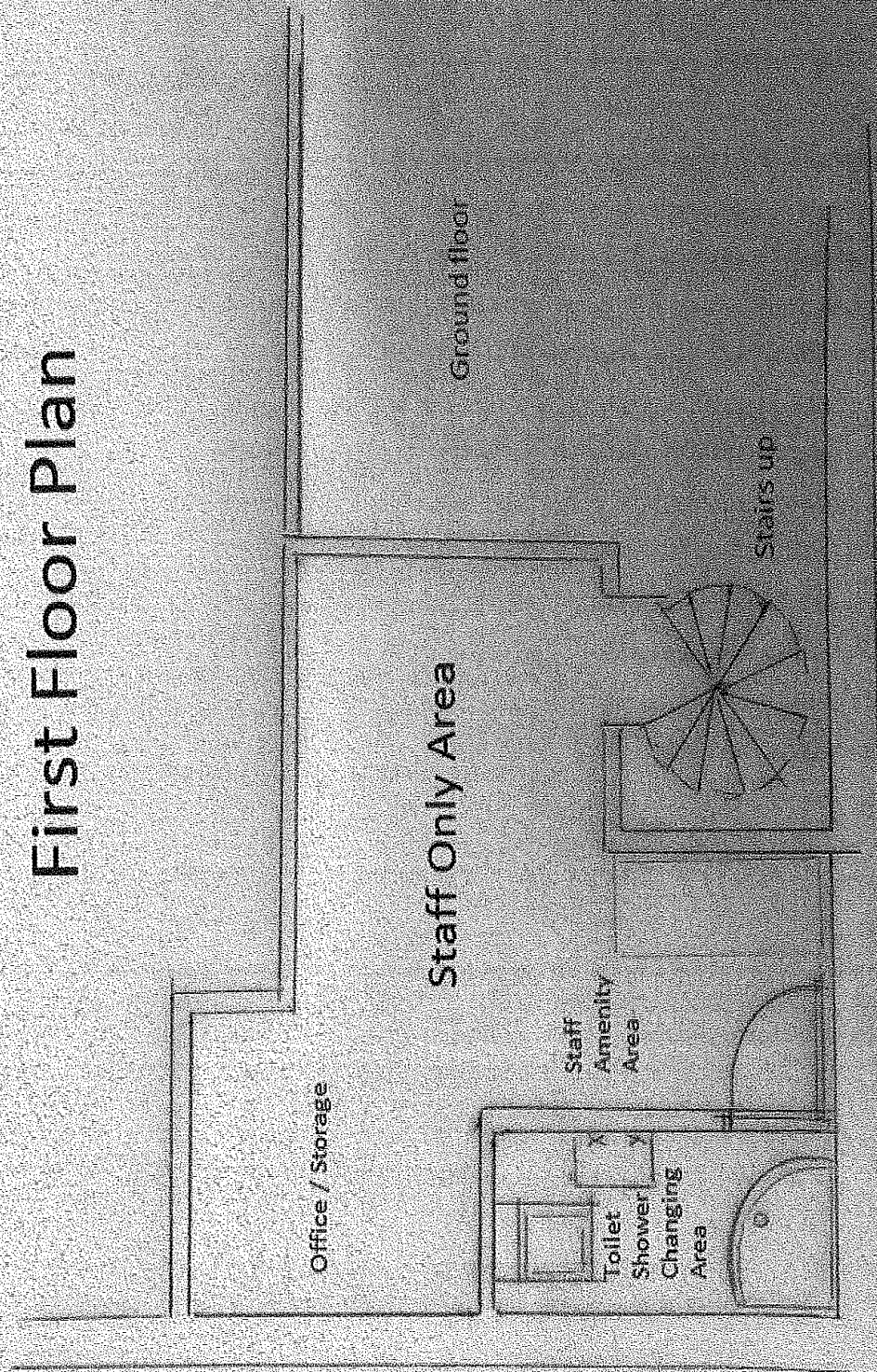
I confirm this information is correct.

Signed..... Date.....

Sunset Novelties Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 07697017



First Floor Plan





To: Enforcement Section

Date: 13th April 2018

From: Licensing Section

Ref: WK/008991418

Property Details: AdultWorld, 1 Hinckley Street, Birmingham, B5 4EB**Licence Type: Sexual Entertainment Venue**

Attached is a copy of an application for a licence in respect of the above.

Please complete the slip below by 11th May 2018.

Lisa Woodward
Licensing Officer

Ref: WK/008991418

Property Details: AdultWorld, 1 Hinckley Street, Birmingham, B5 4EB**Licence Type: Sexual Entertainment Venue**

Please tick one box

- ☒ No objection subject to standard conditions.
- ☐ No objection subject to additional conditions being attached. (Give details on separate memo as additional conditions will need to be referred to Licensing Committee).
- ☐ I object to the issue of a licence. (Give grounds for objection on separate memo as application will need to be referred to Licensing Committee).

Inspected by: GC-1YIN Date: 9/5/18Full Name: GARY CALLEMAN Time taken: 20 minsPosition: LEO Contact number: 4-8829

Regulation and Enforcement
Licensing Section
P.O. Box 17013
Birmingham
B6 9ES

General Licensing
Telephone: 0121 303 9896
Email: licensing@birmingham.gov.uk
Web: www.birmingham.gov.uk/licensing

THE PLACE DIRECTORATE

SEXUAL ENTERTAINMENT VENUES INSPECTION SHEET
Local Government (Miscellaneous Provisions) Act 1982

DATE AND TIME OF INSPECTION	09/05/2018 14:15 hours
OFFICERS INSPECTING	Gary Callaghan / Doug Wright
TRADING NAME OF PREMISES	Sunset Novelties Ltd T/A Adult World
ADDRESS AND POSTCODE OF PREMISES	1 Hinckley Street Birmingham B5 4EB

REASON FOR INSPECTION	GRANT RENEWAL VARIATION
OTHER (PLEASE SPECIFY)	-
JOB NUMBER	WK/008991418

TYPES OF PREMISES NEARBY	PROVIDE DETAILS
RESIDENTIAL PREMISES	None in the immediate area
COMMERCIAL SHOPS USED BY FAMILIES & CHILDREN	None in the immediate area
FACILITIES USED BY FAMILIES EDUCATIONAL, LEISURE	The Old Rep Theatre and Comfort Inn are located in Station Street and the Holiday Inn is located nearby on Hill Street
COMMUNITY BUILDINGS USED BY BY FAMILIES & CHILDREN	None in the immediate area
PLACES OR BUILDINGS OF HISTORICAL/CULTURAL INTEREST OR TOURIST ATTRACTIONS	None in the immediate area
PREMISES USED FOR RELIGIOUS GATHERING	None in the immediate area
OTHER (PLEASE SPECIFY)	

SEXUAL ENTERTAINMENT VENUES INSPECTION SHEET
Local Government (Miscellaneous Provisions) Act 1982

DOES THE PREMISES YOU ARE INSPECTING HOLD AN EXISTING LA2003 PREMISES LICENCE	NO
WAS NOTICE DISPLAYED DATE CHECKED	YES/NO (delete as applicable) 09/05/2018 14:15hours
OTHER (PLEASE SPECIFY)	-

ANY RELEVANT INFORMATION WHICH MAY ASSIST THE LICENSING COMMITTEE

I can advise that Adult World has been trading a number of years in Hinckley street and has held a sex shop and sex cinema licence; The premises has now applied to renew both these licenses and apply for a grant of a Sexual Entertainment Venues licence (SEV) due to premises having stage strip shows every 2 hours and lap dancing. The premises only have 1 private room which has CCTV and a panic button and staff on duty should an incident arise

I have visited the premises and had a meeting with the named person on the application form submitted for the grant of the SEV Licence Michelle Patrick. I have no objections in principle to the application aside for one issue.

It was noted that the premises has a large illuminated sign of a lady displayed high above front entrance (Photograph attached)

Condition (5) states the following :

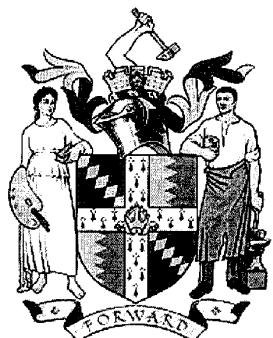
The licensee shall not permit the display outside of the premises of photographs or other images, which indicate or suggest that relevant entertainment takes place in the premises

As such the sign will either have to be removed or covered over. A further inspection will be required to confirm this has been done so that the premises can comply with the above condition. I will update General Licensing Section in due course

Otherwise I am happy that the nominated manager can comply with the Standard Conditions for Sexual Entertainment Venues (SEV) which is issued with the SEV Licence

Gary Callaghan
Licensing Enforcement Officer





BIRMINGHAM CITY COUNCIL SEXUAL ENTERTAINMENT VENUE POLICY

EFFECTIVE FROM 1st November 2014

Licensing Service at Crystal Court,
Aston Cross Business Village
50 Rocky Lane,
Aston,
Birmingham, B6 5RQ

OR alternatively by email to: licensing@birmingham.gov.uk

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1. **Introduction**

- 1.1 Birmingham City Council ("the Council") is able to regulate sex establishments through Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act"), in particular sex shops and sex cinemas.
- 1.2 On 6 April 2010 the Policing and Crime Act 2009 ("the 2009 Act") came into force and amended Schedule 3 of the 1982 Act. Sexual Entertainment Venues ("SEVs") were added as a category of sex establishments to enable local authorities to regulate those premises which provide lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows and other similar entertainment.
- 1.3 The Council resolved on 12 October 2010 to adopt the new amendments to gain regulatory control of SEVs with effect from 3 January 2011. Consequently, this SEV policy applies to the whole of Birmingham.
- 1.4 The adoption of Schedule 3 allows the Council to prescribe standard conditions and fees for the grant, variation, renewal and transfer of SEV licences and the appropriate number of premises to be licensed in a relevant locality, which may be nil.
- 1.5 The aim of this policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing and Public Protection Committee when making a determination on an application. This policy will be reviewed regularly and revised where necessary.
- 1.6 Each application will be dealt with on its own merits
- 1.7 Consideration will be given to the provisions of the Human Rights Act 1998, the Provision of Services Regulations 2009 and the Home Office guidance issued in March 2010 entitled "Sexual Entertainment Venues – Guidance for England and Wales" when considering applications for SEVs.
- 1.8 The Council does not take a moral stance in adopting this policy. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a Licensing Authority to regulate such premises in accordance with the law.

2. **Sexual Entertainment Venues**

- 2.1 An SEV is defined in the 2009 Act as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer".
- 2.2 The meaning of 'relevant entertainment' is "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.

- 2.3 This definitions would apply to the following forms of entertainment [as they are commonly known]: lap dancing; pole dancing; table dancing; strip shows; peep shows and live sex shows. This list is not exhaustive and should only be treated as indicative. The decision to licence premises as sexual entertainment venues shall depend on the content of the relevant entertainment rather than the name given to it.
- 2.4 The 2009 Act provides exemptions from the definition of SEVs as follows:
- Sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act).
 - Premises which provide relevant entertainment on an infrequent basis. These are detailed as premises where:
 - (a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - (b) no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
 - (c) no such occasion has lasted longer than 24 hours.
 - Other premises or types of performances or displays exempted by an order of the Secretary of State.
 - Private dwellings to which the public are not admitted
- 2.5 Premises which provide regulated entertainment on an infrequent basis will continue to be regulated under the 2003 Act insofar as they are providing regulated entertainment under that Act either by virtue of a premises licence or club premises certificate or a temporary events notice issued under that Act.
- 2.6 In practice this means that the vast majority of lap dancing clubs and similar venues will require both a SEV licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provisions of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 2.7 Live music or the playing of recorded music which is integral to the provision of relevant entertainment such as lap dancing for which a SEV licence is required is specifically excluded from the definition of regulated entertainment in the 2003 Act. Therefore, a SEV will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to.

3. **Waivers**

- 3.1 Schedule 3 of the 1982 Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it

considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit. Applications for waivers will be considered in exceptional circumstances.

- 3.2 The Council may at any time give a person who would require a licence but for a waiver, notice that the waiver is to terminate on a date not less than 28 days from the date the notice is given.

4. **Making an Application**

- 4.1 The 1982 Act provides a maximum licence period of one year. The authority may grant a shorter licence if it thinks fit. A shorter period may be granted for example where a licensee wants a licence for a limited period for a trade exhibition or a show.
- 4.2 An application for the **grant, variation, renewal or transfer** of a licence must be made in writing to the Licensing Authority together with the application fee in accordance with the requirements set out below.
- 4.3 There are three separate notice requirements:
1. The applicant must, within seven days after the date of the application, publish an advertisement in a local newspaper circulating in the local authority's area. A suggested form of advertisement is available on request from the Licensing Section.
 2. Where the application is in respect of premises the applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of application. Again a suggested form of notice is available on request.
 3. The applicant must send a copy of the application to the Chief Officer of Police no later than seven days after the date of the application. Where the application is made electronically it is for the Local Authority itself to send the copy within seven days of receipt of the application.
- 4.4 The application form can be used for grant, variation, transfer and renewal applications. Applicants must provide their name, address, age (where the applicant is an individual), the premises address and the proposed licensed name of the premises.
- 4.5 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises complies with the Standard Conditions of Licence.

- 4.6 In addition applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority.
- 4.7 Applicants for SEVs must also submit a copy of their "club rules" and customer code of conduct. Such club rules must contain the required conduct of performers.
- 4.8 Such club rules will form part of the conditions of licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.
- 4.9 Applicants must provide evidence to the satisfaction of the Licensing Service of the registration for, and payment of business rates for the premises in question at the time of application.
- 4.9 Officers of the Licensing Service may, as part of the application process, visit the relevant locality of the premises to establish and report on whether there are any characteristics of the locality which may require consideration by the Licensing and Public Protection Committee.
- 4.10 Officers of the Licensing Service may also consult with colleagues from other Departments such as Planning
- 4.11 With regards to online application tacit authorisation does not apply to applications for SEV licences. This means the applicant must wait for the Licensing Authority to determine the application before they can operate a SEV.

5. **Fees**

- 5.1 The 1982 Act permits the authority to set a reasonable fee. Fees for Sex Establishments are reviewed annually by the Licensing and Public Protection Committee and set at a level appropriate to recover the costs of carrying out the licensing function under that Act namely: administration (including any hearings or appeals), inspection and compliance.
- 5.2 The above process is also applicable to the function of licensing SEVs and the appropriate fees for applications can be found on the Council's website at: www.birmingham.gov.uk/licensingfeesandcharges.
- 5.3 Application fees must be paid in full at the time of submission of the application.

6. **Making Objections to Applications**

- 6.1 The 1982 Act permits a wide range of persons to raise objections about the **grant, renewal, variation or transfer** of a SEV licence. Objectors can include residents, resident associations, trade associations, businesses, Councillors (providing they do not sit on the Licensing and Public Protection Committee),

regulatory agencies such as Planning and Environmental Health, or MPs. The Police are a statutory consultee for all applications.

- 6.2 Objections must be made in writing (email is acceptable) no later than 28 days after the date of the application to the Licensing Authority and should include the following:
- the name and address of the person or organisation making the objection;
 - the premises to which the objection relates;
 - the proximity of the premises to the person making the objection, a sketch map or plan may be helpful to show this.
- 6.3 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The relevant grounds for objection are:
- That the applicant is unsuitable to hold an SEV Licence;
 - That the SEV, if granted would be carried on for the benefit of person/s who would be refused an SEV licence if they had applied themselves;
 - That the layout, character or condition of the premises are inappropriate for the proposed SEV;
 - That the use of the premises as an SEV would be inappropriate due to the use of premises in the vicinity;
 - That the use of the premises as an SEV would be inappropriate due to the character of the relevant locality; and/or
 - That the number of sex establishments or sex establishments of a particular type is inappropriate in the relevant locality.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the 1982 Act will be rejected by the Licensing Service.

- 6.4 The courts have consistently stated that moral objections are inadmissible in such applications and will therefore be rejected.
- 6.5 Objections will be considered by the Licensing and Public Protection Committee determining the application. The applicant will be informed of any objections received in respect of their application and the objection(s) will become public documents. (However, objector's personal details such as name, address and telephone number will be removed.) A copy of the hearing procedure will be sent to the applicant and any objectors prior to the hearing.

7. **Determination of an Application**

- 7.1 **All applications for the grant of a SEV licence will be determined by the Licensing and Public Protection Committee.** Valid objections to any application will be considered by the Licensing Committee or delegated to a Licensing Sub Committee at the hearing to consider the application.

Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing and Public Protection Committee's procedure for hearings, which is available from the Licensing Service.

- 7.2 The 1982 Act provides five mandatory grounds and four discretionary grounds for refusal of a SEV licence. Each application for a SEV will be decided upon its own merits and the Licensing Authority will give clear reasons for its decisions. Any decision to refuse a licence **MUST** be relevant to one or more of the following grounds:

7.3 Mandatory grounds for refusal

Specific mandatory grounds for refusal of a licence are set out in paragraph 12(1) (a to e) of Schedule 3 in the 1982 Act. A licence cannot be granted:

- (a) to any person under the age of 18 years;
- (b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

7.4 Discretionary grounds for refusal

The only discretionary grounds upon which the Council may refuse an application for the grant or renewal of a licence on one or more of the grounds specified in Schedule 3 paragraph 12(3) are that:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
- (b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he/she made the application himself/herself;
- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for the locality;
- (d) the grant or renewal of the licence would be inappropriate, having regard:
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

8. Suitability of an Applicant

8.1 In respect of 7.4(a) and (b) above with regard to the suitability of an applicant to hold a licence, the criteria for Members to consider include, but are not limited to:

- that the operator is honest
- that the operator is qualified by experience to run the type of sex establishment in question
- that the operator understands the general conditions
- that the operator is proposing a management structure which delivers compliance with the operating conditions e.g. through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for welfare of performers
- that the operator can be relied upon to act in the best interests of performers e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored
- that the operator can be relied upon to protect the public e.g. transparent charging, freedom from solicitation
- that the operator can show a track record of management of compliant premises, or that he/she will employ individuals who have such a track record.
- Compliance with other regulatory and taxation schemes

9. Suitability of Premises

9.1 The Council would expect that when an application for an SEV licence at permanent commercial property is made, that the applicant will be able to demonstrate that the layout, character and/or condition of the premises is appropriate to the relevant entertainment proposed at the premises.

9.2 The Council would expect that when an application for an SEV licence at permanent commercial property is made, that property should have the appropriate planning consent.

10. Use of Premises in the Vicinity

10.1 In considering the grant, renewal or variation of the licence would be inappropriate to the use which any premises in the vicinity are put, the Licensing Authority shall consider, among other considerations:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or no frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities

- such as parks, libraries or swimming pools, markets and covered markets;
- (e) the premises are sited near places and or buildings of historical/cultural interest, tourist attractions.
- (f) the premises are sited near civic buildings

11. Character of the Relevant Locality

11.1 With reference to paragraph 8.4(d) 'relevant locality' for the purposes of paragraph 12 of Schedule 3 of the Act means:

- (i) in relation to the premises, the locality where they are situated, and
- (ii) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a Sexual Entertainment Venue.

11.2 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Licensing Authority shall consider, among other considerations, whether the grant of the application would be inappropriate, having regard to:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or no frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets;
- (e) the premises are sited near places and or buildings of historical/cultural interest, tourist attractions.
- (f) the premises are sited near civic buildings

11.3 The Council will consider relevant locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define locality as the whole of the Council's administrative area or an entire town.

12. Appropriate Number of Sexual Entertainment Venues

12.1 As set out within paragraph 7.4(c) above, paragraph 12 of Schedule 3 provides that a Local Authority may refuse an application if it is satisfied that the number of sex establishments or sex establishments of a particular kind in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.

12.2 The Council may choose to set an upper limit guide on the number of SEVs which it considers appropriate in any area within the Council's administrative control. Each application MUST in any event be considered on its merits at the time the application is determined by the local authority.

12.3 The Council considers that the City Centre, being that part of the City which falls within the ring road (A4540) is an area in which it is appropriate to have an upper limit guide on the number of SEVs within it. The Council considers the appropriate upper limit for this area is eight.

13. **Conditions**

13.1 When issuing an SEV licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued either in the form of conditions specific to the individual or standard conditions applicable to all SEVs.

13.2 The Council has decided to produce regulations prescribing standard conditions and these shall apply to every licence granted, varied, renewed or transferred by the authority unless they have been expressly excluded or varied. These regulations are attached to this policy at Annex A.

13.3 It is an offence to operate an SEV without a licence or contravene a condition of the licence. The maximum penalty upon conviction is £20,000

14. **Renewal Applications**

14.1 Provided an application for renewal has been accepted by the Licensing Service prior to the date of expiry, the licence shall be deemed to remain in force until such time as the renewal is determined by the Council, or the application is withdrawn.

14.2 The statutory requirements for advertising and giving notice, are the same as those applying to initial grants, which are dealt with at paragraphs 5-13. Renewal applications will be dealt with by way of delegated authority to officers, unless there are any objections or other matters of concern, in which case, the application will be heard by the Committee.

15. **Revocation of a Sexual Entertainment Venue Licence**

15.1 A licence can be revoked by the Council at any time on any one of the grounds set out in 7.3(a - e) or any one of the grounds set out in 7.4(a and b) of the policy.

15.2 The Council will not revoke a licence without the licence holder being given an opportunity to appear before the Licensing and Public Protection Committee and be heard.

15.3 Where a licence is revoked, the Council shall give the licensee a statement in writing of reasons for its decision within seven days of the request being

made. Where a licence is revoked its holder will be disqualified from holding or obtaining a licence in the area of the Local Authority for a period of 12 months from the date of revocation.

- 15.4 When the authority revokes a licence, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

16. Cancellation of a Sexual Entertainment Venue Licence

- 16.1 The Council may at the written request of the licence holder cancel the licence.

- 16.2 If a licence holder dies then the licence will be deemed to have been granted to the licence holder's personal representatives and will remain in force for three months from the date of the licence holder's death and will then expire.

- 16.3 The Council can, however, on the application of the licence holder's personal representatives extend the three month period if the Council is satisfied that an extension is necessary for the purpose of winding up the late licence holder's estate. The Council will only do so where there are no circumstances that make such an extension undesirable.

17. Variation of a Sexual Entertainment Venue Licence

- 17.1 A licence holder may at any time apply to vary a term, condition or restriction of a licence or apply to change the location of a licensed vessel. The statutory requirements for advertising, giving notice, consideration by the Council, hearings and the giving of the reasons are the same as those applying to initial grants, which are dealt with at paragraphs 5-12. On receiving such an application, the Council can either:

- (a) make the variation as requested;
- (b) make such variations as it thinks fit;
- (c) refuse the application.

- 17.2 The applicant will be given an opportunity to attend a Licensing and Public Protection Committee before a decision is made to make a variation other than that being applied for or to refuse the application.

- 17.3 Where the Council imposes some other term, condition or restriction other than one sought in the variation application, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

18. Right to Appeal a Decision

- 18.1 The decisions against which a right of appeal lies are refusals for the grants, renewals, variations or transfers, the imposition of conditions and also revocation.
- 18.2 Appeals must be made to the Magistrates Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.
- 18.3 It is important to note that appeals only lie against the mandatory refusals on the basis that the mandatory ground does not apply to the applicant/licence holder. Further, no appeal lies against the Licensing Authority's decision made on the discretionary grounds set out at paragraphs 7.4(c and d), namely:
- that it is inappropriate to grant or renew a licence on the grounds of the character of the locality or the number of premises in it; or
 - the use of premises in the vicinity or the layout, character or condition of the premises.
- 18.4 The only discretionary grounds against which an appeal lies are those in paragraph 7.4(a and b) relating to the suitability of the applicant, the manager and/or the beneficiary of the operation.

ANNEX A

BIRMINGHAM CITY COUNCIL

STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES (SEV)

These regulations are made under paragraph 13(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the "1982 Act") as amended by the Policing and Crime Act 2009 (the "2009 Act") to prescribe conditions. In these Regulations, except when the context otherwise requires, the following expressions shall have the following meanings:

- (i) "The Council" shall mean the Birmingham City Council and all enquiries concerning these Regulations and its conditions shall be directed to Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ. 0121 303 9896. licensing@birmingham.gov.uk
- (ii) These conditions apply to all premises licensed as a "sexual entertainment venue" as defined by the said 1982 Act that is to say terms, conditions and restrictions on or subject to which licences under Schedule 3 of the 1982 Act are in general to be granted, renewed, varied or transferred.
- (iii) "Sexual Entertainment Venue" ('SEV') means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser or the entertainer.
- (iv) "Premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
- (v) 'Relevant Entertainment' means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of

sexually stimulating any member of the audience (whether by verbal or other means).

- (vi) The Council may at any time waive, modify or vary these conditions or impose additional special conditions in any particular case.
- (vii) If the Licensee wishes any of the terms of the licence to be varied an application must be made to the Council.
- (viii) In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

OPENING HOURS

- 1. The licensed premises shall not be open or used for the purposes for which the licence is granted except between the hours prescribed within the licence or those hours of operation determined by the Licensing and Public Protection Committee.

WINDOW, FASCIA BOARD ADVERTISEMENT AND DISPLAYS

- 2. Save for the entrance lobby, the interior of the premises shall not be visible to passers-by and to that intent the licensee shall ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.
- 3. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (a) The address of the premises.
 - (b) The licensed name of the premises.
 - (c) A notice stating the opening hours of the establishment.
 - (d) In the case of a licence granted to a body corporate:

- (i) If the premises name is not the same as the full name of the body corporate then such corporate name and;
 - (ii) If the premises are also the body's registered office for the purposes of the Companies Acts then an indication in a form acceptable to the company that such is the case.
- 4. The lettering used in respect of such permitted items shall be of such colour and style as may be approved by the Council.
- 5. The licensee shall not permit the display outside of the premises of photographs or other images, which indicate or suggest that relevant entertainment takes place in the premises.

LICENSED NAME

- 6. At the time of granting the licence in respect of the premises the Council will authorise a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licensee shall ensure that the premises are known solely by that name and by no other, save as provided for by the paragraph below.
- 7. To change the licensed name, an application shall be made to the Council not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

EXHIBITION OF LICENCE

- 8.
 - a) A copy of the licence (two pages) shall be suitably framed and exhibited in a position that can easily be read by all persons entering the premises.
 - b) The conditions of licence and all such documents listed as Appendices to said licence shall be retained in a clean and legible condition and immediately available for inspection by anyone who so requests.

9. The licensee shall retain a copy of a form signed by each employee and performer confirming that they have read and understood the licence and conditions. The copy shall be retained for a period of six months after they cease work at the premises. A copy of the licence and conditions shall be given to each performer.

RESPONSIBILITY OF THE LICENSEE

10. The licensee or a responsible person over 18 years of age nominated by them in writing for the purpose of managing the SEV in their absence shall be in charge of and upon the premises during the whole time they are open to the public.
11. The written nomination referred to in condition 10 above shall be maintained in a daily register, kept on the premises and made continuously available for inspection by an officer authorised by the Council or police officer.
12. The person in charge shall not be engaged in any duties that will prevent them from exercising general supervision and they shall be assisted as necessary by suitable adult persons to ensure adequate supervision.
13. The licensee must ensure that there is a current insurance policy in force to cover the performers whilst the premises are open and that a copy is displayed in areas where all staff have access.

EMPLOYEES AND MANAGEMENT STAFF

14. The licensee shall keep and maintain at the licensed premises a written record of the names, addresses, and copies of photographic proof of age documents of all persons employed or performers permitted to operate within the licensed premises whether upon a full or part time basis and shall, upon request by an authorised officer of the Council or police officer, make such

records available for inspection to them. (see Conditions regarding Door Supervisors)

15. Condition 14 does not relate to persons engaged to carry out repairs or provide services from external companies to the premises, however, such persons must be aged 18 years and over if the premises are open for the purpose of providing sexual entertainment.
16. The licensee shall ensure that all persons employed or permitted to work within the licensed premises hold the appropriate rights to work and shall keep copies of any documentation used to verify the details of these rights where necessary.
17. The licensee shall maintain a register of the names, addresses and dates of birth of such person or persons (whether employees or otherwise connected with the business) who have authority to manage the premises in the licensee's absence.
18. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified to the Licensing Authority

CHANGE OF LOCATION AND ALTERATIONS TO PREMISES

19. Where the licensed premises is a vessel or stall, the licensee shall not move the licensed vessel or stall from the location specified in the licence unless a variation application is submitted for the Council's determination giving not less than 28 days notice. n.b. this requirement shall not apply to a vessel or stall which habitually operates from a fixed location but which is regularly moved (whether under its own propulsion or otherwise) from another place such location as is specified in the licence.
20. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises as shown on

the plan, including any change in the permitted signs on display shall not be made except with the prior approval of the Council.

CLUB RULES

21. Any club rules imposed on the performers shall be displayed in a prominent position within the premises for all employees to have easy access whilst at work.
22. A copy of the club rules shall be provided to performers engaged by the premises by means of a written contract signed by the recipient. Copies of the same must be retained on the premises and produced to an authorised officer of the Council or police officer on request.

FEES

23. Receipts or records of payments received should be provided to performers where "house fees" are charged or when any fines are issued.

PERFORMANCES

24. No person under the age of 18 shall be permitted to be on the licensed premises when sexual entertainment is provided. A notice shall be clearly displayed at the entrance to the premises in a prominent position stating that "No person under 18 will be admitted when sexual entertainment is being provided" so that it can be easily read by persons entering the premises.
25. Each area where relevant entertainment is conducted shall be supervised and/or contain a panic alarm for the safety of performers.
26. A customer code of conduct shall be prominently displayed in each area to which the public are admitted.
27. Performers shall be aged not less than 18 years.

28. Full nudity is only permitted in the approved designated areas, as stipulated or shown on the approved plan attached to the licence. In all other public areas within the premises the performers and employees must at all times wear at least a G string (female) and or pouch (male) covering the genitalia
29. During all performances (including performances usually termed 'private dances') there must not be any deliberate contact, by the performer, with any patron or person within the audience except:
 - a). Leading a patron by the hand to and from a chair or private room or designated dance area.
 - b). Simple handshake greeting at the beginning and/or end of the performance.
 - c). A customary ("peck on the cheek") kiss at the end of the performance.
 - d). the placing of monetary notes or dance vouchers into the hand or garter worn by the performer.
30. No performances shall include any sex act involving any other persons or objects (or involve any form of auto-erotic stimulation).
31. A price list shall be displayed in a prominent position giving the price and the duration of any 'private dances'.
32. Any person employed to supervise or attend to the exterior or entrance area of the premises must, at all times be suitably and sensibly dressed so as not to indicate or suggest the nature of the relevant entertainment taking place at the premises.
33. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except as shown on the plan; within the toilets, within the performers' dressing rooms and/or staff areas.

- 34. At all times during a performance, performers shall have unrestricted access to a dressing room.
- 35. Patrons or members of the audience shall not take photographs or record digital images of performers within the premises via a camera or mobile phones

DOOR SUPERVISORS

- 36. The licensee shall ensure all door supervisors employed or contracted to work on the premises are suitably licensed by The Security Industry Authority or appropriate agency.
- 37. Where door staff are used, the licensee shall maintain profiles for all door staff that are, or have been, working at the premises in the last six months. The profile is to contain proof of identity (copy of passport /photo driving licence) and proof of address dated within the last six months (bank statement /utility bill). Separate proof of address is not necessary when the proof of identity is a photo driving licence. All profiles are to be made immediately available to Authorised Officers upon request.
- 38. An adequate number of licensed door supervisors, based on a risk assessment undertaken by the licensee, shall be on duty on the premises whilst relevant entertainment takes place.
- 39. At least one door supervisor shall be on duty at the premises at all times when the relevant entertainment takes place.

CCTV

- 40. CCTV shall be installed in each room within the premises where the public has access save for the toilet and staff only areas. All cameras shall continuously record whilst the premises are open to the public and recordings shall be kept available for a minimum of twenty-eight days.

- 41. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers.
- 42. The premises will provide copies of any recordings upon request by a police officer or an authorised officer of the Council within 24 hours of the request.

TOUTING FOR BUSINESS AWAY FROM THE PREMISES.

- 43. The licensee shall not allow the use of vehicles including limousines for the promotion of the relevant entertainment.
- 44. The collection of patrons and or potential clients is not permitted unless the vehicle is licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.
- 45. The licensee shall not permit any person whilst on a public thoroughfare to encourage any other person to visit the SEV premises by any means.
- 46. The licensee shall endeavour to ensure any marketing communications associated with the SEV or relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.

ADMISSION OF AUTHORISED OFFICERS

- 47. Officers of the Council, Police, and other authorised agencies who are furnished with authorities (which will be produced on request) shall be admitted immediately to all parts of the premises at all reasonable times and at any time the premises are open for business.

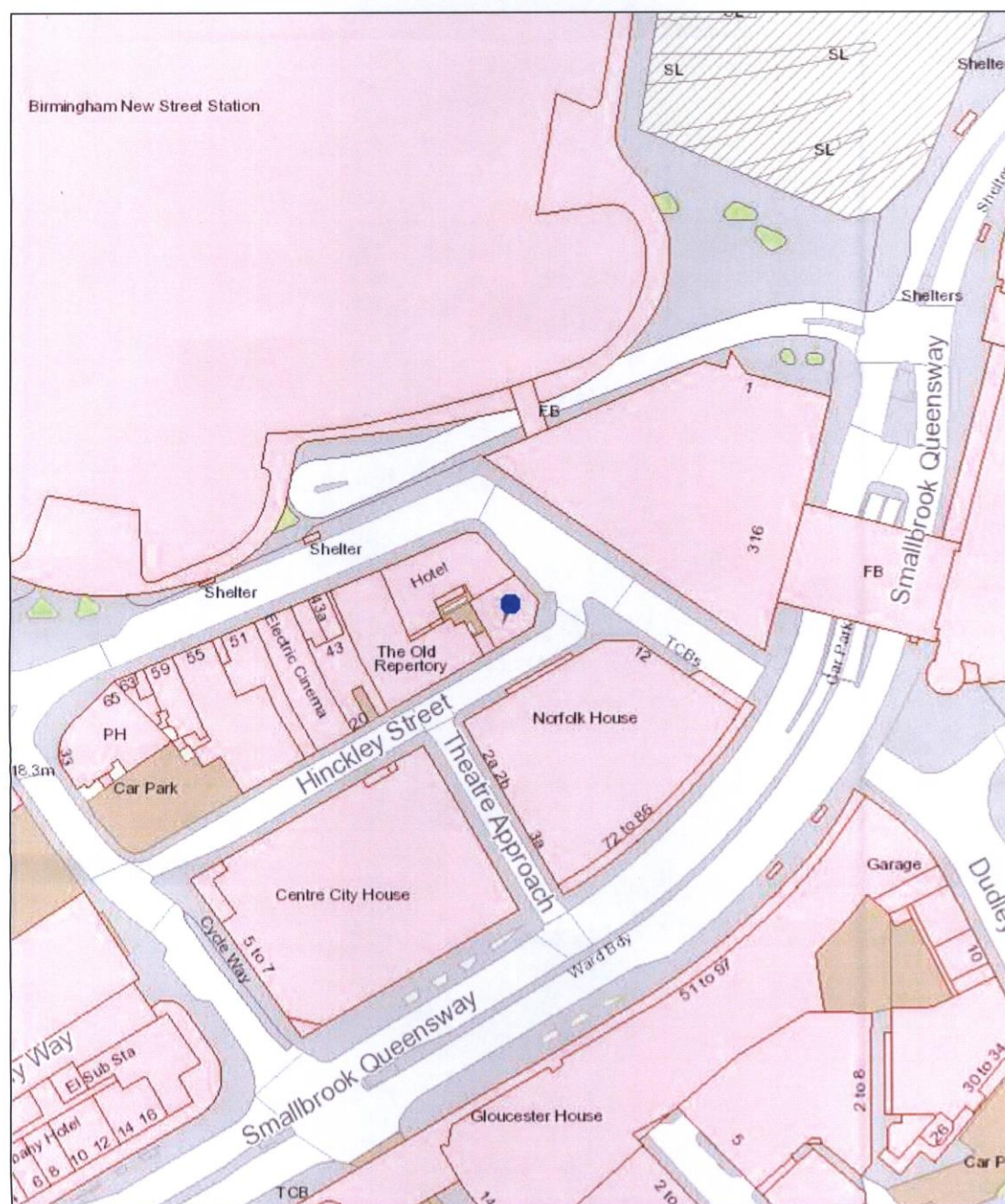
ANNEX B

SCHEME OF DELEGATION OF DECISION-MAKING AND FUNCTIONS

The Licensing and Public Protection Committee is responsible for making licensing decisions with Sub-Committees and officers having delegated powers to make some decisions. The table below describes how licensing decisions will be made. This scheme of delegations will be subject to regular review

Nothing within this scheme of delegations shall prevent matters being referred to a higher level where appropriate. E.g. officers may refer matters to a sub committee, or a sub-committee may refer a matter to full committee.

Matter to be dealt with:	Decision to be made by:		
	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Application for grant or transfer	All cases		
Application for renewal or variation	If relevant objection made		If no relevant objection made
Minor variation application	If relevant objection made		If no relevant objection made
Revocation of Licence	All cases		
Cancellation of Licence			All cases
Make/amend regulations prescribing standard conditions, terms and restrictions	All cases		
Setting of fees	All cases		
Waiver	All cases		
To make and amend policy relating to the licensing of sex establishments	All cases		
To enforce the provisions of Part II and Schedule 3 of the Local Government Miscellaneous Provisions Ac 1982			All cases



Birmingham City Council

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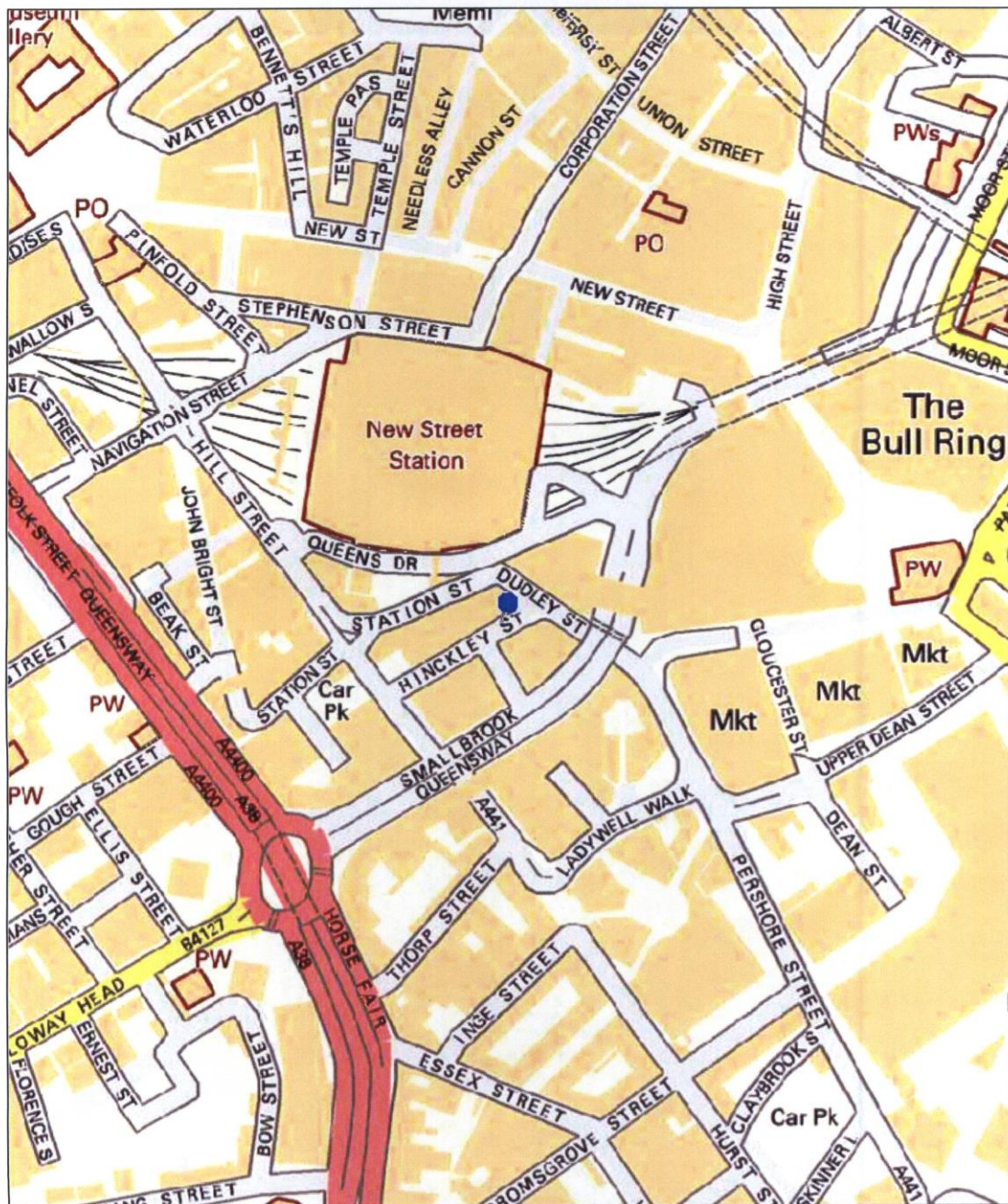
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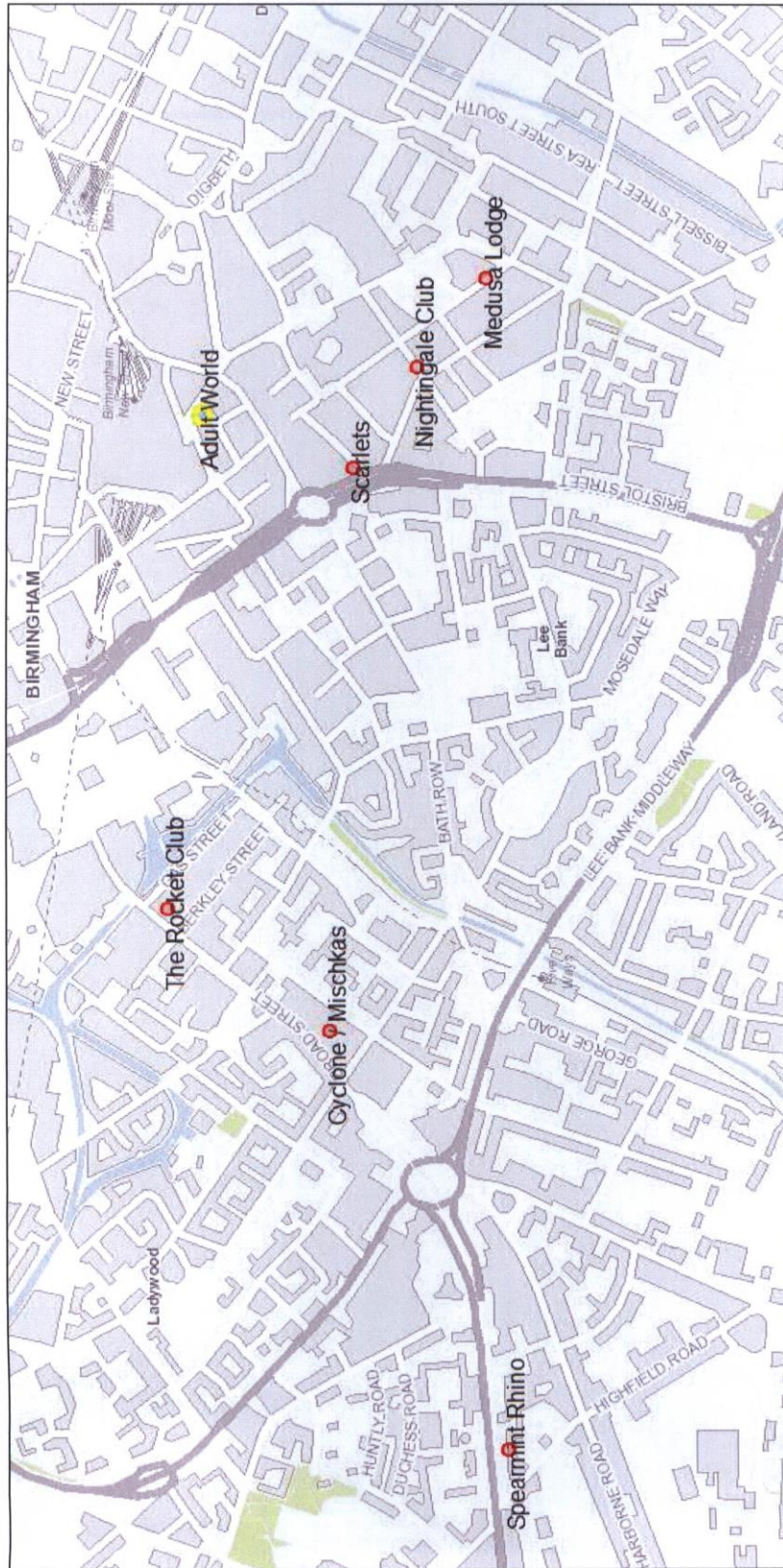
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BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

23 JULY 2018

SCHEDULE OF OUTSTANDING MINUTES

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
916 (iii) 23/10/2017	<u>Emissions Policy beyond 31 December 2019</u> The Acting Service Director of Regulation and Enforcement be requested to prepare a report for this committee to consider a medium to long-term emissions policy in respect of hackney carriage and private hire vehicles beyond 31st December 2019.	Report due in September 2018
916 (iv) 23/10/2017	<u>Absolute Age Policy in respect of Hackney Carriage and Private Hire Vehicles.</u> The Acting Service Director of Regulation and Enforcement be requested to prepare a report for this Committee at the earliest opportunity to consider an absolute age policy in respect of hackney carriage and private hire vehicles.	Report due in September 2018
920 23/10/2017	<u>Card Payments in Hackney Carriage Vehicles</u> The Acting Service Director of Regulation and Enforcement be requested to instruct officers to consult with the wider trade to establish the level of support for all Birmingham Licensed hackney carriages to be equipped to take credit card payments; amongst other drivers and trade organisations and report back to this Committee	Report due in September 2018
934 (ii) 15/11/2017	<u>Update Report on Proposed Strategy for Venues Operating as Shisha premises in Birmingham</u> The Acting Service Director of Regulation and Enforcement be requested to instruct officers to undertake a wider consultation with key stakeholders on the adoption of the proposed strategy. Officers to present the outcome of the consultation at a future meeting of Committee, with their recommendations on a finalised Strategy for the Committee's approval.	Report due in September 2018
942 (ii) 15/11/2017	<u>Revision of Birmingham City Council Act 1990 Establishments for Massage and/or Special Treatments</u> The Acting Service Director of Regulation and Enforcement be requested to provide a report for Committee reviewing the need for the Birmingham City Council Act 1990 and options including delegation of	Report due in September 2018

	hearings to Licensing Sub-Committees.	
976 14/02/2018	<u>Update Report On Unauthorised Encampments</u> – The Acting Service Director of Regulation and Enforcement be requested to report further in three months' time to update on the various work items contained within the report.	Report due in September 2018

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

JULY 2018
ALL WARDS

FOOD LAW ENFORCEMENT PLAN 2018/2019

1. Summary

- 1.1 The Local Government Act 2000 requires each Food Authority to identify its strategy and the resources required to fulfil its Food Safety function each year in the form of a Food Law Enforcement Plan.
- 1.2 The Food Law Enforcement Plan for 2018/2019 which is attached to this covering report includes a review of the food safety activity carried out in 2017/2018.

2. Recommendation

- 2.1 That the Food Law Enforcement Plan be agreed.

Contact Officer: Nick Lowe, Operations Manager Food
Telephone: 0121 303 2491
Email: nick.lowe@birmingham.gov.uk

3. Background

- 3.1 The Food Law Enforcement Plan sets out the City's commitment to Food Safety Enforcement for the year ahead.
- 3.2 The plan shows the number of food hygiene and food standards interventions which will be required and identifies those areas of work which are considered essential to protecting food safety in Birmingham.
- 3.3 The plan includes the targets that were set for last year (2017/2018) and reviews performance against them.
- 3.4 The activities in this plan are a statutory requirement under EC Regulation 882/2004 Article 3, and the requirements of the food authority are defined in Article 4. This includes carrying out effective and appropriate official controls and having sufficient numbers of suitably qualified and experienced staff.

4. Consultation

- 4.1 The work outlined in this report involves consultation with interested parties such as the Food Standards Agency, DEFRA, and Public Health England.

5. Implications for Resources

- 5.1 Whilst the exact costs are difficult to forecast we estimate that the plan will not be able to be delivered within the resources available to your Committee with a shortfall of 10 full time equivalent officers.
- 5.2 Due to the council wide freeze on incremental rises it is becoming more difficult to retain competent and experienced officers. This also means that where recruitment is possible, we are not getting interest from experienced officers wishing to work here. As a direct result we are only likely to attract newly qualified officers, putting an even greater strain on existing staff.

6. Implications for Policy Priorities

- 6.1 Safe food is not only crucial to the health and safety of citizens and visitors to the City but the work which is referred to in the Food Law Enforcement Plan is also consistent with other policy priorities including economic success, staying safe and being healthy. The reduction in food safety activity will have a direct impact on these priorities.
- 6.2 It is important that all groups within Birmingham, as well as visitors to the city, are offered suitable standards of food quality and hygiene to allow them the healthy lifestyle opportunities to which they are entitled. The targeting of food safety interventions according to business risk ratings means that every effort is made to ensure safe food in the most efficient and effective way. Inevitably though there are a large number of businesses, and therefore consumers, who are not being protected.

7. Public Sector Equality Duty

- 7.1 Equality issues are accounted for during food safety activities carried out by officers.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

Local Authority Framework Agreement - Food Standards Agency 2001

FOOD LAW ENFORCEMENT PLAN 2018-2019

1. Background

- 1.1 All local authorities are required to produce a Food Law Enforcement Plan which sets out the measures the authority will take to safeguard food safety during the forthcoming financial year and reviews the targets set for the previous year.
- 1.2 Birmingham has approximately 7,114 food premises including manufacturers, wholesalers, retailers and caterers, ranging from small and medium sized businesses to major concerns and this includes 77 food businesses which need specific approval. In addition many other businesses change hands throughout the course of a twelve month period. A concerted effort was made to reduce the number of unrated premises in the city with a total 769 unrated inspections were carried out in 2017/8. Despite this work there are currently 1675 unrated food businesses requiring inspection and rating, this is an increase of 402 from the 1273 in April 2017. This equates to 1171 new registered businesses last year. Despite the targeting of new businesses the problem continues to grow. It is estimated that up to 20% of known food businesses in Birmingham are now unrated and therefore have not been inspected. This provides a constant challenge to ensure that all food businesses are included in the regular food inspection programme. A recent report by Which?, ranked Birmingham as the lowest authority area in the country for food safety, this was in the main based on the high number of unrated/uninspected food businesses.
- 1.3 As well as carrying out food hygiene and food standards inspections, high risk food complaints relating to adulteration, composition, labelling, fitness and quality are investigated. An annual food and water sampling programme is carried out to ensure that microbiological, chemical and compositional standards are met, including nationally co-ordinated surveys. All reported outbreaks and sporadic cases of suspected food poisoning are also investigated.
- 1.4 Food safety activities are undertaken in line with the 'Better Regulation Agenda' brought in by the Regulatory Enforcement and Sanctions Act 2008, i.e. being proportionate, accountable, consistent, transparent and targeted. The Act, therefore, places greater emphasis on providing advice and guidance to food businesses in addition to firm but fair enforcement.

2. Demands on the Food Service

- 2.1 Each Local Authority has different demands which impact on the delivery of the food safety service and within Birmingham these include:

- Ensuring that the statutory inspection targets are met in respect of such a large number of food premises in the largest local authority in England and Wales.
 - Ensuring that an equitable service is delivered in a multi-cultural City so that information on food hygiene and technical advice is accessible to all food traders.
 - Dealing with a high turnover of food businesses and proprietors within the City and maintaining an accurate database to ensure that all food premises are inspected.
- 2.2 The reduction in officer numbers within Environmental Health will impact on the service, particularly in respect of planned activities

3. **Introduction to The Food Law Enforcement Plan for 2018/2019**

- 3.1 The priorities for ensuring food safety in Birmingham for 2018/2019 are to:
- Carry out a programme of food hygiene interventions for the year.
 - Will now only investigate high risk requests for assistance in relation to food hygiene, food standards and food complaints, including sporadic cases and outbreaks of infectious disease.
 - Carry out a food and water sampling programme, including private water supplies, subject to available resources.
- 3.2 The work plan to safeguard food in Birmingham during the forthcoming year is detailed in Appendix 1.
- 3.3 Some of the figures, such as those for requests for assistance, infection control cases and food alerts given in Appendix 1 are not targets, as these will depend on the number of complaints and requests made which can obviously vary, but are the expected numbers based on the figures for 2017/2018.
- 3.4 The aim is to achieve a level of food safety in Birmingham that is consistent with the City Councils vision of a safer and healthier city.

4. **Food Premises Interventions**

- 4.1 Under the Statutory Food Law Code of Practice, all food premises are categorised according to an intervention rating score. This determines the frequency of primary food hygiene interventions, from 6 months to 3 years, and depends on the type of food business, the type of food processing or handling undertaken, hygiene and structure of the premises and how well risks are controlled.
- 4.2 These criteria are assessed and scored in Birmingham to give food businesses a rating under the 'National Food Hygiene Rating Scheme' (visit

www.ratings.food.gov.uk). The scores for 6261 premises are available via the ratings website and since the launch officers have also been issuing window stickers for display in food premises for all businesses. The ratings range from 0 (urgent improvement necessary) to 5 (very good). As part of the scheme, businesses can request a rescore when the conditions have improved; a charge for this service was introduced from 1st April 2017.

- 4.3 Currently, 85.19% of rated food businesses in Birmingham are classed as 'broadly compliant', which leaves approximately 1,053 which are not, this figure includes 717 0-1 rated premises. Officers will be concentrating on those worst premises i.e. those in the 0-1 range by carrying out additional interventions and taking enforcement action where necessary in order to raise standards to 'broadly compliant'
- 4.4 The authority will continue to utilize a range of interventions depending on the previous history of the food business. These interventions include inspections, audits, monitoring, surveillance, verification visits, advice and guidance and information/intelligence gathering. The intervention programme will be as indicated below.

The higher risk category A to C premises will be subjected to full inspections. This includes inspections of premises requiring approval, manufacturers and larger more complex food businesses, these types of businesses add an additional 30 officer days per month demand on resources.

In relation to Category D and E rated premises, we will critically review the nature of the businesses and base our interventions as follows:

- those businesses with no inspectable risk (vending only, bookmakers retailing drinks only, chemists) will be removed from the programme;
- full inspection of low risk child care establishments following referral from Ofsted;
- full inspections of any premises subject to a food hygiene complaint where investigated;
- full inspection of 10% of category D and E premises where open food is handled.
- the remaining premises will be subject to a self-assessment questionnaire by correspondence. This does not meet the requirements of the statutory code of practice.

In relation to the 1675 unrated food businesses – these are new registration businesses and those discovered operating that have not yet been inspected. These will be completed as resources permit.

An identified backlog of 37 category A-C inspections.

Approx 1200 new registrations are expected this year, these will be completed as resources permit on a risk basis.

- 4.5 Food standards inspections which cover the quality, labelling and composition of food are rated differently but, where possible, these will be carried out at

the same time as food hygiene inspections. Particular emphasis will be placed on food standards during inspections of manufacturers. Officers will also check on the traceability of products and their authenticity during inspections, to detect and reduce food fraud.

- 4.6 The food hygiene and food standards interventions which are required during 2018/2019 are given in Appendix 1.

5. Food Related Complaints and Requests for Assistance

- 5.1 Investigations are carried out into complaints about poor hygiene in food premises and in response to requests for assistance from food proprietors who need additional advice about their business. The number of complaints matched the all-time peak last year of 3232. An increasing number of these complaints are held until the next scheduled inspection following a risk assessment, rather than being investigated when received.
- 5.2 In addition, an average of 540 complaints are received each year from members of the public who are concerned about the food they have bought or eaten. These are investigated on health risk basis and are often complex investigations involving other Local Authorities, national companies and importers where food has originated from outside Birmingham or the UK. The main aim of these investigations is to find out whether the complaint is indicative of a general problem which could have serious implications for public health at a local, regional or national level and to take steps to control any further risk. Where the issue is low risk, investigations will be delayed until the next programmed inspection. The number of these types of complaints reached an all-time high last year of 737, well above the average.
- 5.3 The FSA operates a system to alert the public and food authorities to problems concerning food which does not meet food safety requirements or which is inadequately labelled and where a product recall has been issued. Many of these are for information only where the company concerned has been able to trace and recall most of the product, but some require local authority involvement to contact retailers or caterers to ensure the food is removed from sale. The alert system now includes a new category of 'Allergy Alert' highlighting the importance placed on allergen control, the number of alerts has therefore increased dramatically this year and is expected to follow this trend. With such a large number of caterers and retailers in the City, this can prove a challenging and time consuming exercise. Where a large scale response is required this will impact on other demands of this plan.

6. Home/Primary Authority Principle

- 6.1 The Service supports the Home Authority Principle set up by LGR (Local Government Regulation) and the Primary Authority Principle set up by BRDO (Better Regulation Delivery Office). This means that a formal partnership arrangement is set up so that one local authority becomes the main point of

contact to give the business advice on food policy matters and to advise other local authorities on any complaints they may be investigating within their area.

6.2 Regulatory Services has formal partnerships for food safety and food standards matters with:

- | | |
|--------------------------------|--|
| • Mondelez | - chocolate and confectionery manufacturer |
| • Wing Yip | - Chinese importer and wholesaler |
| • Hand Made Burger Co. | - Restaurant chain |
| • Virgin/ Cross Country Trains | - Catering outlets on train services |
| • Greggs | - Bakery (informal partnership at present) |
| • Thai Leisure Group | - restaurant chain |
| • Sweet Heart Ice Cream | - manufacturer (proposed) |
| • My Cookie Dough | - manufacturer (proposed) |

6.3 This is a resource intensive exercise as additional meetings and inspections are required in order to properly advise both the business and other local authorities. Where Primary Authority Partnerships have been agreed, we operate a cost recovery system from the company, with approximately £9,000 recovered this year. For this reason we are continuing to convert our existing Home Authority arrangements to Primary Authority Partnerships. We are not able to make a profit on these arrangements, they are purely cost recovery. The principle is supported through our contact with businesses involved in the Greater Birmingham and Solihull Local Enterprise Partnership.

6.4 In addition, Birmingham is the originating authority for approximately 150 food manufacturers, whereby the Home Authority principles are applied, although formal partnerships have not been established with these companies. We have a statutory duty to deal with referrals from other Local Authorities where products manufactured in Birmingham are sold in other areas, and problems are identified. There is no requirement for these businesses to enter into a formal partnership arrangement.

7. Food Sampling

7.1 A food and water sampling programme will be developed during the year in conjunction with Public Health England (PHE) and the Public Analyst.

7.2 The sampling programme will be restricted to national and regional surveys co-ordinated by PHE and CENTSA, the surveys planned and numbers of samples proposed have yet to be agreed due to funding restrictions. There had been a year on year reduction in sampling, from 589 in 13/14, 163 in 14/15, 122 in 15/16, and 121 in 16/17. The figure for 17/18 reversed this trend with 226 samples taken, however this included 100 samples funded externally through public health projects. The number planned for this year is not known at this stage. The aim of the programme is to ensure that food and drink supplied, manufactured and sold within Birmingham meets regulatory standards in terms of microbiological safety, labelling, composition and

quality, and are accurately described, giving consumers accurate information when purchasing food products.

8. Control of Infectious Diseases

- 8.1 Serious outbreaks and sporadic cases of food poisoning and suspected food poisoning are investigated, including potentially serious infections such as typhoid, paratyphoid, dysentery and E. coli 0157. Officers work in close liaison with the Consultants in Communicable Disease Control, Public Health doctors and nurses of the Health Protection Agency to protect the public health of people who live and work in or visit the City. Joint guidelines have been produced to ensure that all cases of infectious disease are investigated thoroughly. Reciprocal training is carried out to train professionals for both Regulation and Enforcement and Public Health England.

9. Food Premises Database

- 9.1 It is important that the food premises database is kept as up to date as possible so that all food premises are inspected regularly. To achieve this a range of initiatives are carried out including the registration process, area surveys and officer's working proactively to identify new food premises in their districts. This additional surveillance ensures that new food businesses which have not registered are identified so that they can be included in the food inspection programme.
- 9.2 A number of issues were highlighted relating to the recording of premises on the database, and the ratings applied. A management report has been developed that identifies anomalies in relation to the information held about food businesses, including the ratings applied. This report will be run quarterly and any such anomalies will be corrected. This will ensure that the database is up to date and returns to the FSA are accurate.
- 9.3 There are 1675 unrated food businesses that have been identified on the database. Whilst these are being included in the inspection programme which would improve the integrity of the database and the returns to the FSA, we anticipate that an additional 10 officers would be required to complete this backlog.

10. Advice to Businesses

- 10.1 In accordance with the Enforcement Policy, advice is offered wherever possible to food businesses, to assist them in complying with relevant law and the principles of good practice. This advice may be given during inspections or when requests for assistance are received directly from established food traders or from those considering setting up new food businesses.

- 10.2 A special starter pack to help new or proposed food businesses has been developed which is available on the City Council's website (www.birmingham.gov.uk/foodsafety). A wide range of other online leaflets in community languages is also available. The pack is also provided to new businesses at initial inspections when appropriate.
- 10.3 In addition, the food safety web pages on BCC's website provide more information and advice to food businesses and consumers and where to find additional support, such as from the Food Standards Agency.
- 10.4 Officers also work closely with the Events Division to ensure that food and health and safety at large outdoor events in Birmingham are assured. An information pack has been developed for traders to receive in advance and on-the-day inspections will be carried out at events such as Vasaikhi, Eid Mela, Frankfurt Christmas Market and Taste of Birmingham. The demand in this area of work has increased and the trend continues this year with very high profile events in the city. Additional resources have not been identified to cover this demand and will therefore impact on other parts of this plan. Serious consideration is therefore being given to cease activities in this area due to a lack of resources in future.

11. Food Safety and Standards Promotion

- 11.1 Queries from the public will be responded to on food safety matters as part of the overall request for assistance service, subject to available resources.
- 11.2 As part of our partnership with Public Health the authority will continue to explore ways to encourage food outlets to provide healthier choices on their menus.
- 11.3 Due to changes in labelling regulations all food business are required to provide greater information to consumers about allergenic ingredients. Following a significant on-going education programme in the city to prepare businesses for this change, this process now includes planned enforcement at premises deliberately flouting the legislation. This approach is part of a wider regional initiative led by Birmingham officers. However, the number of unrated and therefore uninspected food businesses presents a considerable risk to allergen sufferers in Birmingham, who will expect that all businesses are checked to ensure allergen information is accurate and up to date.
- 11.4 All food businesses operators (FBOs) will be required to put in place simple practical steps to manage acrylamide within their food safety management systems. This will ensure that acrylamide levels are as low as reasonably achievable in their food.

Regulation 2017/2158 establishes best practice, mitigation measures and benchmark levels for the reduction of the presence of acrylamide in food.

Businesses will be expected to do the following:

- be aware of acrylamide as a food safety hazard and have a general understanding of how acrylamide is formed in the food they produce;
- take the necessary steps to mitigate acrylamide formation in the food they produce - adopting the relevant measures as part of their food safety management procedures
- undertake representative sampling and analysis where appropriate, to monitor the levels of acrylamide in their products as part of their assessment of the mitigation measures
- keep appropriate records of the mitigation measures undertaken, together with sampling plans and results of any testing
- The measures are proportionate to the nature and size of the business, to ensure that small and micro-businesses are not burdened.

This is considerable new legislation for a large number of food business and a significant period of advice and guidance, including the training of officers will be required. Currently this has not been accounted for in the available resources.

12. Review of work undertaken in 2017/2018

Inspections and legal action

- 12.1 Appendices 1 and 2 give detailed information on the food safety work carried out during 2017/2018.
- 12.2 Some 3584 food hygiene inspections were carried out in 2017/2018 and 2233 food standards inspections. This represents 88.51% of the programmed inspection target and also included a number of low risk inspections to premises not included in the programme but where complaints had been received. This is a drop from the 94% achieved in 2016/17.
- 12.3 Officers though concentrated on ensuring that the genuine low scoring premises were improved, by carrying out additional inspections and taking enforcement action where necessary. Although these premises are not automatically re-rated the current rate of improvement after officer action stands at 85%.
- 12.4 Birmingham has 77 food businesses which require specific EC approval. These are premises which produce or store high risk meat, fish or dairy products on a wholesale basis. This process usually involves a number of inspections, a review of the company's food safety management system and an assessment of other conditions before approval can be granted and requires a more in-depth knowledge of assessing food safety systems.

These types of premises were responsible for E.Coli outbreaks investigated by Professor Pennington and represent the highest risk to food safety

- 12.5 During 2017/2018, 81 premises were found to present an imminent risk to health and were closed immediately until all necessary works were carried out. This is significantly above the average number of closures which are normally carried out in Birmingham but a slight decrease on last year's record high. Although this could be considered a large number, compared to the total number of inspections carried out, (3584) it only represents 2.26% of premises which seriously failed to meet basic hygiene requirements and put their customers at risk.
- 12.6 63 premises were prosecuted for food hygiene and food labelling related offences, with total fines amounting to £687,629 and costs recovered of over £100,866. In addition 10 businesses received a simple caution. This is a 50% increase in the number of prosecutions compared to previous years and continues an upward trend.
- 12.7 One of the particular reasons for the rise in enforcement activity was a project to inspect a number of overdue Category A-D premises identified in last years plan. These businesses had a significantly higher proportion subjected to enforcement, including closure, prosecution and the service of legal notices. This demonstrates the importance of regular interventions to ensure food safety. A full report on this project and outcomes was reported to committee earlier this year.

Food and water sampling

- 12.8 A range of surveys have been carried out to investigate the microbiological safety of food products as well as composition and labelling. The sampling programme has included surveys of food manufactured in Birmingham as well as a number of surveys on healthy eating claims
- 12.9 As part of the sampling programme, 11 food and water surveys were carried out, complaints and outbreaks were investigated, in total comprising 226 samples in total. Of these, results are awaiting for approximately 100 samples, 36 were unsatisfactory i.e. 28% due to high bacterial counts or adulteration. This is a higher failure rate than in previous years and demonstrates the improved targeted and intelligence led programme. All of the issues identified were raised with the companies concerned and their home authorities and follow up action taken to ensure that problems were rectified and where necessary food products removed from sale.

Food Hygiene Rating Scheme

- 12.10 The ratings website where hygiene scores for businesses are displayed features over 6,000 food businesses. As part of the scheme officers issued window stickers for all businesses in the scheme. We continue to support the introduction of legislation requiring the mandatory display of ratings stickers.

Training

- 12.11 All officers who carry out food inspections have received training in food safety, although this was less than the 10 hours required, and the ever-popular Birmingham Practical Food Inspection courses were held in June 2017 in conjunction with Birmingham University and Wolverhampton University.

Project Work

- 12.12 Officers have worked in partnership with the Council's events division, two officers were appointed to offer specialist advice concerning food safety at the major outdoor events which took place in the City including, the Christmas German Market, the Vaisakhi celebrations and the Birmingham Carnival. Safety advisory groups were attended for 40 events and 15 events were subjected to actual inspections. Over 300 actual inspections were carried out of food businesses at those events to ensure they were a success. The work included denying access to businesses with a rating less than 4, on six occasions requiring a business to cease trading due to unsatisfactory conditions, but also working closely with businesses to secure compliance when this was possible. As indicated it is expected that the service will be unable to provide this level of support to events in this coming year.
- 12.13 In addition officers from The Food Lead Team have been working with Severn Trent and the Council's events team to address the issues of water supply at outdoor events. Where potable water is supplied it is required to meet drinking quality standards, even where it is not supplied for drinking purposes. We are also working closely with Severn Trent to identify and report illegal standpipe use, this not only is theft of water but can also pose a serious public health risk if defective standpipes are used.
- 12.14 Officers have worked with traders on the Bull Ring Indoor Market to improve the efficiency and effectiveness of temperature control equipment to ensure that products sold remain safe. Further work has been undertaken to improve the hygiene ratings of businesses at the Bull Ring Indoor Market.
- 12.15 Officers have been involved throughout the year supporting businesses with the Wholesale Market Relocation. This has included ensuring that all businesses are registered or approved as required, offering advice and guidance on plans, developing a food safety management system for market traders and holding regular drop in sessions for traders to access additional support. A separate committee report on this work will be presented later this year.

13. Trends

- 13.1 Appendix 3 gives statistical information showing the trends in a number of areas of food safety since 2011. The number of food premises in Birmingham and the interventions required has been fairly steady. The number of interventions carried out in 2017-2018, due to excluding the low risk inspections, was 88.51% of the actual target.
- 13.2 The number of Emergency Prohibition Notices served has fluctuated over the past 6 years but with a definite increase in the last three years, the average has risen to 68 served per year. The number served in 2017-2018 was significantly above this average, see appendix 3.
- 13.3 The number of Food Hygiene requests for assistance has continued to rise in comparison to the previous year. The numbers are more than double that received in the early 2000's, perhaps showing an increased public awareness of food hygiene and a demand for high quality, and ease of making complaints via the internet. The number of complaints about food this year is 50% above the six year average.
- 13.4 The number of sporadic cases of infectious disease has remained high last year. This highlights the need to continue to direct resources at poor performing food businesses and the importance of food safety in the Service Plan in reducing foodborne infection. The number of reported outbreaks of infectious disease has dropped this year; although most community outbreaks are being investigated by Public Health England.

14. Resources

- 14.1 The food safety work during 2017/2018 was carried out within existing budgets, except where indicated.

Essential food related work carried out in 2017/2018 and planned for 2018/2019

APPENDIX 1

Activity	No. planned/ expected 2017/2018	No. achieved 2017/2018		Comments	No. planned or expected in 2018/2019
Food hygiene primary inspections, category				<p>The interventions planned for 2018/2019 include all of the category A-C premises. The category D and E premises are subject to interventions as detailed in the report.</p> <p>The programme will also include the overdue A-C premises, new registrations and unrated premises as reported.</p>	
A (High risk)	131	142			170
B	564	573			523
C (Medium risk)	924	879			962
D	862	841			839
E (Low risk)	142	110			178
Overdue A-C	0	0			37
Overdue D	153	153			11
Overdue E	0	0			2
Unrated	1273	886			1675
New Registrations	500	1171			1200
Food standards primary inspections	2234	2233		Food standards inspections are carried out at the same time as food hygiene inspections. As the number of food hygiene inspections was in excess of the target for food standards inspections, the number of food standards inspections was therefore increased. All premises classed as high risk for food standards such as food manufacturers were inspected.	2233

Activity	No. planned/ expected 2017/2018	No. achieved 2017/2018	Comments	No. planned or expected in 2018/2019
Requests for assistance: Food hygiene/ standards Food complaints TOTAL	3237 626 3863	3232 737 3969	These are not targets but expected figures – the numbers depend on the demand made by consumers and traders	3232 737 3969
Infection control: Sporadic cases Outbreaks	1196 7	1169 4	Most outbreaks of gastro-intestinal disease are caused by person-to-person spread of viruses which may not be food borne. However, the initial symptoms are the same as for food borne bacterial causes and so all outbreaks are investigated.	1169 4
National food alerts: For action For information TOTAL	2 74 76	14 119 133	The numbers depend on alerts issued by the Food Standards Agency	14 119 133
Food and water sampling	Programme of sampling to be carried out	samples carried out	More details are given in section 12.	The programme will be developed during the year in consultation with the PHE and BCL
Food related training for EHP's	10 hours for each officer	10 hours	All officers involved in food safety enforcement are required by the Code of Practice to complete 10 hours relevant training per year	10 hours per officer

Additional food related work carried out in 2017/2018 and planned for 2018/2019

APPENDIX 2

Topic	Activity in 2017/2018	Planned for 2018/2019 including resources implication (officers days per month)
Hygiene scores on the web	There are now 6261 food premises featured on the website, and officers are giving out stickers to all food premises following a programmed inspection	Charging for revisits was launched in April 2017 as agreed by Committee. The charge has increased to £175.
Practical food inspection course	Two courses were provided on the identification and inspection of primary food	2 courses (depending on demand) in conjunction with B'ham and Wolverhampton Universities. (8 days)
Outdoor events	A lead officer has been assigned to liaise with Leisure Services on events such as Vaisakhi, the German Market and the Lord Mayor's show, Taste of Birmingham and to provide advice to mobile traders attending.	As for 2017/2018, it is hoped that additional resources are to be directed at ensuring compliance during the German Market. (14 days)
Home/Primary Authorities	Additional work required – liaison with the company, advice given on policy matters and liaison with other local authorities.	Further development of Primary Authority partnerships with additional companies. (50 days)
Meetings at national level and consultation documents: FSA, LGA	Meetings have been attended as required, and consultation documents commented on.	As for 2017/2018 (5 days) subject to available resources.
Liaison meetings: Water Authorities & CCDC's	Meetings have been attended as required.	As for 2017/2018 (2 days)
Food Fraud	Investigation of complaints.	To investigate the traceability of fresh meat at retail sale, and the labelling and marketing of fresh meat. (3 days) subject to available resources.
Private Water Supplies	Monitoring and sampling of private water supplies.	To carry out risk assessments of private water supplies and private distribution networks. (5 days)
Markets business support.	Provide advice and guidance to markets section and market traders to improve compliance	As for 2017/18 (10 days) subject to available resources.

Food Safety related statistics 2012/2018

Activity	2012/2013	2013/2014	2014/2015	2015/2016	2016/17	2017/18	6 year average
Total number of food premises in Birmingham	7379	7505	7330	7564	7657	7114	7424
Programmed/ Primary Food hygiene inspections carried out	3284	3104	2947	3087	3641	3584	3274
Food Standards inspections carried out	3071	2169	2320	2674	2234	2233	2450
Emergency Prohibition Notices served	38	34	46	116	92	81	68
Food safety prosecutions completed at court	30	19	21	31	63		
Food hygiene RFA's dealt with	1807	1210	2030	2622	3237	3232	2356
Food complaints RFA's dealt with	532	440	450	460	626	737	540
Sporadic infectious disease cases investigated	1190	1058	1211	1109	1196	1169	1155
Outbreaks investigated	23	19	11	1	7	4	11
Food alerts received	44	34	34	74	76	133	67

**REPORT OF THE SERVICE DIRECTOR REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

23 JULY 2018
ALL WARDS

HEALTH AND SAFETY LAW ENFORCEMENT PLAN (HSLEP) 2018/2019

1. Summary

- 1.1 Local authorities are required, by the Health and Safety Executive's National Local Authority Enforcement Code (May 2013), to produce an annual Health and Safety Law Enforcement Plan (HSLEP).
- 1.2 This requirement is part of section 18(4) of the Health and Safety at Work etc. Act 1974 (HASWA), and requires all enforcing authorities to comply with requirements in the Code.
- 1.3 This document which is Birmingham's HSLEP sets out the Health and Safety work programme for 2018 - 2019.

2. Recommendation

- 2.1 That the report is noted and the Health and Safety Law Enforcement Plan for 2018/2019 be approved.

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3. Background

3.1 To meet the Health & Safety Executive's (HSE) *National Local Authority Enforcement Code*, Birmingham City Council as a local authority enforcing health and safety law is required to:

- make a commitment to improving health and safety outcomes;
- set out our priorities and plan of interventions for the current year taking into account local and national priorities; and
- target our interventions to maximise their impact.

3.2 To meet these requirements of the current *National Local Authority Enforcement Code*, the City Council should:

- make a formal corporate commitment to improving health and safety outcomes;
- implement a written intervention plan which is agreed by senior management including Members, and:
 - a. ensure adequate arrangements are provided for the enforcement of health and safety within the City
 - b. include a range of risk-based interventions such as planned inspections, planned enforcement initiatives, investigation of accidents and complaints,
 - c. link health and safety interventions with national, regional and local objectives such as national campaigns, and
 - d. include planning and delivering objectives with other partners and stakeholders.

3.3 This Health and Safety Law Enforcement Plan (HSLEP) includes proactive inspections of premises categorised as posing the highest risk identified through either national or local priorities. This enables resources to be directed to those areas where we believe we can have a positive impact in improving health and safety standards.

4. Consultation

4.1 The work outlined in this report is in response to the requirements of the HSE who direct local authorities on health and safety interventions nationally. The work has also been chosen to target high risk incidents that have been reported to the City Council in the previous financial year or are of an on-going concern.

5. Implications for Resources

5.1 The HSLEP will be delivered within existing budgets. However, priorities may have to be reviewed during the course of the year according to circumstances. For instance, a large number of major accidents may require resources to be diverted from other areas of work identified in the plan.

6. Implications for Policy Priorities

- 6.1 The promotion of health and safety in the workplace, and where required effective enforcement interventions make an essential contribution to the health and well-being of residents and visitors to the City.
- 6.2 There are also direct economic benefits to businesses that are able to manage health and safety to a high standard. These are borne out through reduced absenteeism, insurance premiums, equipment repairs, etc.
- 6.3 The activities undertaken by Environmental Health in relation to health and safety supports the City Councils Business Plan 2018+ and the Leader's policy of improving the health of the citizens of Birmingham.

7. Implications for Equality and Diversity

- 7.1 The inspection and control of workplaces is essential to protect the health, safety and welfare of all people employed in or who are visitors to Birmingham. There have been no specific implications for equality and diversity identified.

SERVICE DIRECTOR REGULATION AND ENFORCEMENT

Background Papers: Nil

HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2018/2019

1.0 Overall aim of the service

1.1 The Health & Safety Law Enforcement Plan (HSLEP) represents our commitment to improving health and safety outcomes for employers, employees and visitors to Birmingham. The HSLEP also represents our continued commitment to the Health and Safety Executive's (HSE) Strategy, *Helping Great Britain work well 2016*¹. It also continues to support the recommendations of the Löfstedt review *Reclaiming health and safety for all: An independent review of health and safety regulation*².

1.2 Through a range of different interventions we will:

- Work in partnership with businesses to enable them to succeed economically;
- Secure justice for the victims of poor health and safety provision / management;
- Help prevent work-related death, injury and ill-health;
- Deal with serious risks (i.e. those likely to cause serious injury, ill-health, or death);
- Use risk-based and intelligence-led interventions to target our activities appropriately and proportionately. In accordance with the *National Local Authority Enforcement Code*, we will take a common-sense approach and only target the higher-risk activities and be proportionate and consistent in our enforcement.

2.0 Introduction

2.1 Section 18(4) of the *Health and Safety at Work etc. Act 1974* (HASWA) requires that enforcing authorities perform their duties in accordance with guidance from the HSE. This guidance is known as the *National Local Authority Enforcement Code* (the Code).

2.2 We will, in line with the Code, continue to reduce the burdens on business, which disproportionate enforcement of health and safety enforcement imposes. We achieve this by employing a range of different ways of dealing with businesses. These include proactive inspections, reactive visits in response to accidents and complaints, mailshots, etc. collectively, these are referred to as "interventions".

2.3 One of the key elements of the Code is that local authorities must, annually, publish their HSLEP. This HSLEP sets out the arrangements to demonstrate how we will comply with Section 18 of HASWA, and outlines the work programme for the forthcoming financial year.

¹ <http://www.hse.gov.uk/strategy/assets/docs/hse-helping-great-britain-work-well-strategy-2016.pdf>

² <http://www.dwp.gov.uk/docs/lofstedt-report.pdf>

- 2.4 Our work programme incorporates the requirements of the Code; covers a number of the national priorities listed by the HSE within Local Authority Circular 67/2 (revision 7) and takes into account local health and safety priorities which are based on local intelligence mainly generated through incidents / accidents received.

3.0 Primary Authority Partnership (PAP)

- 3.1 These continue both nationally and in the City Council, to grow. PAPs enable businesses to nominate a single local authority from whom they can receive assured professional advice. All other local authorities are required to adhere to this assured advice when considering taking action against the partner company. Please see section 6.0 for a list of our current “health, safety and welfare” PAPs.

We are continuing to seek opportunities to develop further Partnerships during 2018/2019.

4.0 The Scope of the Health and Safety Service

- 4.1 Health and safety regulation within the UK is predominately undertaken by the HSE and local authorities. The *Health and Safety (Enforcing Authority) Regulations 1998* states the sectors the HSE and local authorities regulate, this is largely dependent on the work activity being carried out in the premises. The Environmental Health Section is responsible for enforcing health and safety legislation in a wide range of premises in Birmingham, these include:

Warehousing & distribution	Steel stockholders & timber merchants	Sports stadia, theatres and cinemas
Retail and catering outlets	Hotels, hostels and residential care homes	Children's day nurseries
Offices	Tattooists and beauty treatments	Consumer Services e.g. coin operated laundrettes

4.2 There are around 21,000 business premises in Birmingham which come under our jurisdiction for health and safety regulation. Taking a risk based approach to proactive inspections as per HSE guidance, these individual business or specific types of businesses are only inspected where national or local intelligence indicates that there may be an increased risk to the health and safety of employees and or the public. By targeting our resource in this way it ensures that we reduce the burden on compliant and low risk businesses, and focus support on those businesses that need it most.

4.3 Our approach to regulation is in line with the HSE³ and our Enforcement Policy⁴, as well as taking into consideration the principles of Better Regulation:

- Targeted (to take a risk-based approach);
- Proportionate (such as only intervening where necessary);
- Accountable (to explain and justify service levels and decisions to the public and to stakeholders);
- Consistent (to apply regulations consistently to all parties); and
- Transparent (being open and user-friendly).

5.0 Priorities for 2018/19

5.1 Our key delivery priorities are listed below:

³ <http://www.hse.gov.uk/pubns/hse41.pdf>

⁴ <http://www.birmingham.gov.uk/regulatoryenforcementpolicy>

Strategic national priorities

- Investigate notifiable incidents, dangerous occurrences and cases of work-related illness in accordance with national incident selection criteria.
- Undertake a programme of targeted interventions of premises where the risk of legionnaire's disease is greater.
- Inspect falls from height and workplace transport management in warehousing / distribution premises / other premises where history of falling from height known (not chains).
- Investigate all notifiable incidents where work-related violence is implicated to ensure that the business has both suitable management systems in place, and adequate security measures.
- When identified undertake inspections of vehicles delivering goods to all sector premises to reduce risks from unstable loads.

Local priorities

- In conjunction with the national priorities mentioned above, we will also inspect:-
- Manual handling tasks and the risk of falls from height in tyre premises (not national chains).
- Food machinery safety in catering premises to ensure that guarding of dangerous moving parts is being maintained.
- Shisha bars to ensure that employees are not being exposed to unacceptable health risks or from unsafe workplace conditions.

Partnership work

- Identify further business partners to enter into Primary Authority Partnerships, and grow existing ones.
- Continue through attendance at the West Midlands Health and Safety Liaison Group to share best practice with local colleagues and participate in relevant intervention work.
- Work with local and multisite businesses and the HSE through attendance at events or partnership work

6.0 Primary Authority Partnerships

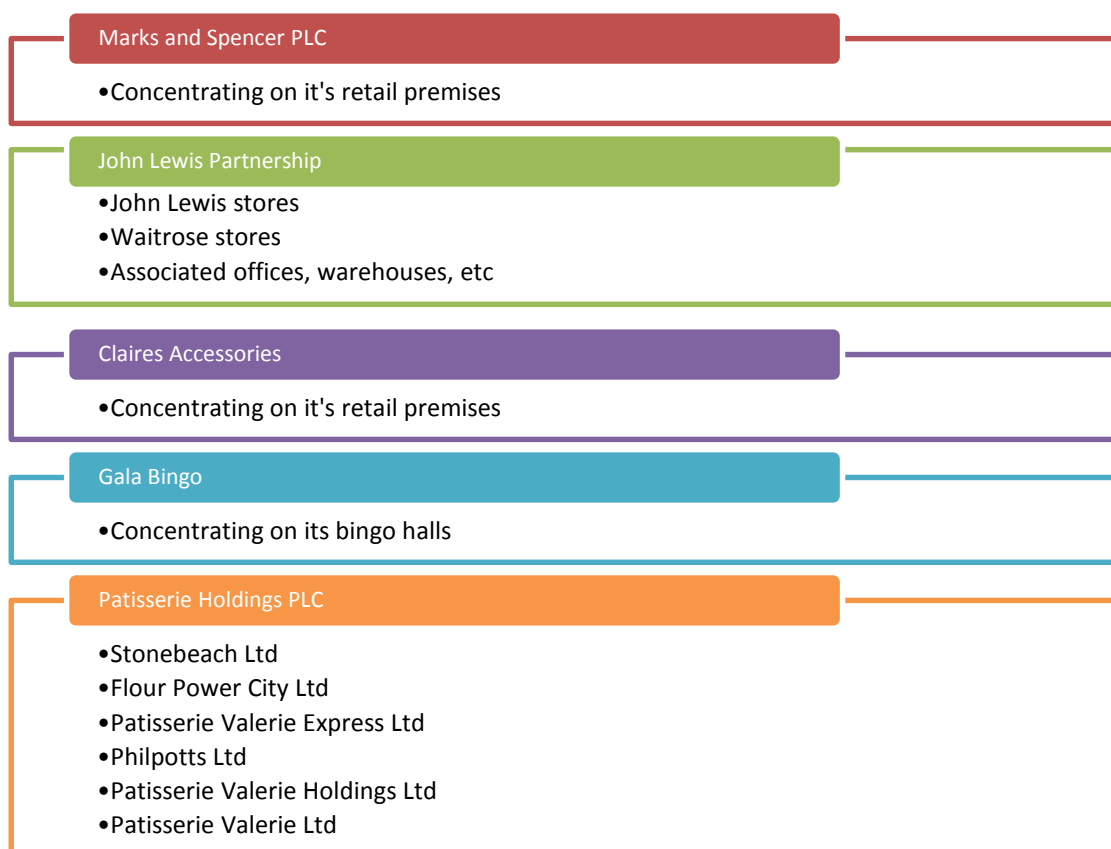
We are continuing to support and develop our PAPs covering England and Wales.

Primary Authority Partnerships allow us to:

- Work closely with the business helping them to apply health and safety regulations to their specific circumstances.
- Provide robust and reliable advice which must be recognised by all local regulators.
- Introduce, where required, a national inspection plan to improve the effectiveness of inspection, avoid repeated checks, and enable better sharing of information.
- Monitor enforcement action to ensure that the business is treated consistently and that responses are proportionate to the issue.
- Recover the costs incurred by managing the partnership including officer time and travelling expenses.

The City Council cannot profit financially from PAPs. However, the Partnerships do promote the positive work of Birmingham City Council nationally.

We have five “Health, Safety and Welfare” Primary Authority Partnerships with



We will continue discussions with other companies to develop further Partnerships.

HEALTH AND SAFETY INTERVENTION PLAN FOR 2018/2019

Topic	Rationale	Number (‘Expected figure’ based on last years’ statistics)	Target
Health and safety related requests for assistance (RFA)	To respond to requests for assistance in line with Regulation and Enforcement’s target of responding to all RFAs within 5 working days	Approximately 450 expected	100% response
Category 1 accidents (Fatalities and Serious injuries)	To investigate serious cases where health and safety management may have broken down and to prevent further injuries or ill health	6 expected	100% investigated
Category 2 accidents (Serious injuries and Occupational Disease Notifications)	To investigate cases where health and safety management may have broken down and to prevent further injuries or ill health	Approximately 100 expected	100% investigated
Category 3 accidents (Less serious but reportable accidents)	To investigate cases where health and safety management may have broken down and to prevent further injuries or ill health	Approximately 300 expected	All will be assessed but not investigated unless specific reason determined (e.g. the accident occurred where we are targeting project work in that sector).
Reduce the risk of legionella	To ensure that the risk of legionella is appropriately controlled at source e.g. Cooling Towers and to assess businesses such as sports facilities to ensure suitable management controls are in place.	15 interventions	100% inspected
Reduce the risk of serious injuries from workers /others being struck by moving vehicles or falling from height. Machinery guarding and Occupational Health	Carry out proactive inspections of higher risk premises such as builders merchants / other such premises to check on safety measures in place to prevent workers from being at risk of injury or ill health within these business sectors.	30 visits	100% inspected

Topic	Rationale	Number (‘Expected figure’ based on last years’ statistics)	Target
Reduce the risk of falling from height or muscular skeletal disorders in tyre premises	Carry out proactive inspections of tyre premises to check on controls preventing workers or stock from falling from height or workers sustaining ill health handling of tyres	15 visits	100% inspected
Reduce the risk of injury through the unsafe operation of bouncy castles following a number of incidents nationally	Carry out proactive inspection during visits to premises to assess the safe operation ie anchoring the castle to the ground, of bouncy castles in the leisure sector	10 visits	100% inspected
Reduce the risk of ill health to employees in Shisha bars and unsatisfactory workplace conditions	Carry out proactive inspections of Shisha Bars to check on health control measures and workplace conditions	10 visits	100% inspected
Reduce the risk of personal injury and work-related stress in connection with violent incidents.	Investigate all notifiable accidents and RFAs where work-related violence is the causal factor.	10 expected	100% investigated
Reduce the risk of, amputations, crush injuries, as a result of coming into contact with unguarded dangerous parts of work equipment.	Inspect work equipment known to have caused serious injury (e.g. mixers, dough rollers, chippers, etc.) in catering establishments to ensure workers are not exposed to risks to their safety.	200 inspections	100% inspected
Reduce the risk of employees being injured whilst unloading delivery vehicles	To support the national priority, officers will proactively view unloading operations during other visits to premises for which the City Council is the enforcing authority.	10 interventions expected	100% inspected
Reduce the risk of, serious injury from use of lifting equipment, e.g. fork lift truck, passenger lift, window cleaning cradle(s) where defects have been found during thorough examinations.	Contact the duty holder (email/letter) or visit where serious defects have been reported to make sure the equipment has been taken out of use or the repairs carried out.	75 notifications expected, but anticipate <10% will require contact / visit	100% of those requiring visits will be investigated
Training	Provide up to 10hrs training for all staff authorised under Health and Safety at Work etc. Act 1974. Where appropriate provide and facilitate training to external organisations and local authorities and / or to generate an income.	All health and safety authorised staff	100% of identified training

