

To: All Members of the LICENSING AND
REGULATORY COMMITTEE
(Other Members for Information)

When calling please ask for:

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Policy and Governance

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Calls may be recorded for training or monitoring

Date: 4 June 2021

Membership of the Licensing and Regulatory Committee

Cllr Robert Knowles (Chairman)
Cllr Michael Goodridge (Vice
Chairman)
Cllr Roger Blishen
Cllr Martin D'Arcy
Cllr Jerome Davidson
Cllr Patricia Ellis

Cllr Jerry Hyman
Cllr Peter Isherwood
Cllr Anna James
Cllr Jacquie Keen
Cllr Michaela Martin
Cllr Ruth Reed

Substitutes

Cllr Steve Cosser
Cllr Jenny Else

Cllr Joan Heagin
Cllr John Ward

Members who are unable to attend this meeting must submit apologies by the end of Monday, 7 June 2021 to enable a substitute to be arranged.

Dear Councillors

A meeting of the LICENSING AND REGULATORY COMMITTEE will be held as follows:

DATE: MONDAY, 14 JUNE 2021

TIME: 10.00 AM

PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS,
GODALMING

The Agenda for the meeting is set out below.

The meeting can be viewed remotely via the Council's YouTube channel or
www.waverley.gov.uk/webcast.

Yours sincerely

ROBIN TAYLOR

Most of our publications can be provided in alternative formats. For an audio version, large print, text only or a translated copy of this publication, please contact committees@waverley.gov.uk or call 01483 523351

NOTE FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

AGENDA

1. **MINUTES**

To receive the minutes of the meeting held 1st March 2021.

2. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

To receive apologies for absence and to report any substitutions

3. **DECLARATIONS OF INTEREST**

To receive from members declarations of interest in relation to any items included on the agenda for this meeting, in accordance with the Waverley Code of Local Government Conduct.

4. **QUESTIONS FROM MEMBERS OF THE PUBLIC**

The Chairman to respond to any questions received from members of the public in accordance with Procedure Rule 10.

The deadline for submission of written questions for this meeting is Monday 7th June 2021.

5. **QUESTIONS FROM MEMBERS**

The Chairman to respond to any questions received from Members in accordance with Procedure Rule 11.

The deadline for submission of written questions for this meeting is Monday 7th June 2021.

LICENSING ACT 2003 ITEMS

6. **APPOINTMENT OF THE LICENSING ACT 2003 SUB-COMMITTEES FOR 2021/22**

The Licensing & Regulatory Committee is invited to appoint three Licensing Act 2003 Sub-committees, for the purposes of holding hearings relating to

applications under the Act.

Current sub-committee memberships are:

Sub-Committee A:

*Cllr Jerome Davidson
Cllr Patricia Ellis
Cllr Michaela Martin*

Sub-Committee B:

*Cllr Michael Goodridge
Cllr Roger Blishen
Cllr Anna James*

Sub-Committee C:

*Cllr Robert Knowles
Cllr Ruth Reed
Cllr Martin D’Arcy*

OTHER LICENSING ITEMS

7. **APPOINTMENT OF LICENSING (GENERAL PURPOSES) SUB-COMMITTEE FOR 2021/22**

The Licensing & Regulatory Committee is invited to appoint five members to the Licensing (General Purposes) Sub-committee.

Current sub-committee membership is:

*Cllr Robert Knowles
Cllr Martin D’Arcy
Cllr Peter Isherwood
Cllr Jacquie Keen
Cllr Ruth Reed
Cllr Jerome Davidson (Sub)
Cllr Michael Goodridge (Sub)
Cllr Michaela Martin (Sub)*

8. **REVIEW OF WAVERLEY BOROUGH COUNCIL'S POLICY FOR THE LICENSING OF SEX ESTABLISHMENTS - CONSULTATION** (Pages 7 - 44)

Whilst there is no formal legislative requirement for the Council to adopt a policy in relation to the licensing of sex establishments it is considered beneficial for the Council to do so given that it is the Council’s role as licensing authority to regulate such premises. This is in accordance with the Local Government (Miscellaneous Provisions) Act 1982 which allows Waverley to license sex shops, sex cinemas and sexual entertainment venues.

Waverley introduced a Policy in 2012 and within that Policy stated that it will be kept under review, and that it will review the Policy every five years. The current Waverley Policy has been in place since January 2017 and will be reviewed over the next few months. This will lead up to a new Policy being in

place by January 2022 for a further maximum five-year period.

NOTE: Waverley does not currently have any Sex Establishments.

[Current Policy for Licensing of Sex Establishments](#)

REVIEW OF STATEMENT OF POLICY FOR THE LICENSING OF SEX ESTABLISHMENTS 2022– TIMETABLE

Write to consultees on	19 th July 2021
Place consultation information on web on	19 th July 2021
Consultation period ends 11th October 2021 (12 weeks), followed by:	
Licensing and Regulatory Committee	8 th November 2021
COUNCIL	14 th December 2021

9. **REVIEW OF WAVERLEY BOROUGH COUNCIL'S STATEMENT OF GAMBLING POLICY - CONSULTATION** (Pages 45 - 68)

The Gambling Act 2003 requires Waverley to have a Statement of Gambling Policy, that it keeps this under review, and that it must completely review the Policy within every three year period. The current Waverley Policy has been in place since January 2019 and has to be reviewed over the next few months. This will lead up to a new Policy being in place by January 2022 for a further three-year period, unless amended earlier.

[Current Statement of Gambling Policy](#)

NOTE: Waverley currently has:

- 7 Betting shops
- We normally receive (before Covid) 1 annual Temporary Use Notice for a 'Point to Point' horse race at Pepper Harrow,
- We issue small society lottery licences
- We **do not have** any Casino's, Tracks, Bingo or Family Entertainment Centres.

REVIEW OF STATEMENT OF GAMBLING POLICY 2022 – TIMETABLE

Write to consultees on	19 th July 2021
Place consultation information on web on	19 th July 2021
Consultation period ends 11th October 2021 (12 weeks), followed by:	
Licensing and Regulatory Committee	8 th November 2021
COUNCIL	14 th December 2021

**For further information or assistance, please telephone
Kimberly Soane, Democratic Services Officer, on 01483 523258 or by
email at kimberly.soane@waverley.gov.uk**



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Waverley Borough Council

Policy for the Licensing of Sex Establishments

Adopted on 21 February 2012

Reviewed 2016 to have effect 01 Jan 2017 till 01 Jan 22

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1 Introduction

Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 enables a local authority to adopt the provisions of Schedule 3 of the Act. These provisions relate to the control, by way of licensing, of sex establishments.

This legislation was amended, with effect from 1st April 2010, by the provisions of Section 27 of the Policing and Crime Act 2009 to include sex encounter establishments.

Sex establishment now means a

- sex shop
- sex cinema or
- sex encounter establishment

Waverley Borough Council adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas to apply from the 01 June 1983, and adopted the new provisions relating to sexual entertainment venues (section 27) on 21 February 2012.

The Council appointed 01 May 2012 as the date on which the provisions relating to sexual entertainment venues came into effect.

This document sets out both guidance on the legislation and the Council's policies which will be taken into account when dealing with matters under this legislation.

2 General Policy Matters

2.1 Overarching Objectives

Whilst there is no legal requirement for the Council to adopt a policy in relation to the application of this legislation it is considered beneficial for the Council to do so.

2.2 Adoption Process

Date	Action	Closing Date For Comments
29 September 2011	Sex Establishment consultation process placed before the Licensing Committee	
04 October 2011	Start of Consultation	15 November 2011
15 November 2011	End of Consultation	
15 December 2011	Report to licensing Committee on Consultation	Officers requested for further info and to return

		16 February 2012
16 February 2011	Further report to committee.	Adopted - Yes Policy accepted
21 February 2012	Full Council to consider report and formally adopt Policy	Policy formally adopted
16 March 2012	1 st Public notice of adoption	
23 March 2012	2 nd Public notice of adoption	
01 May 2012	Date for Policy to come into force.	
13 Sept 2016	5 year Review started	
07 Oct 2016	Consultation (6 weeks)	18 Nov 2016
24 Nov 2016	Report to licensing Committee on Consultation	
2016	Full Council to consider report	

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The consultation was placed on the Council's website, sent to all the Relevant Authorities, Parish/Town councils, Waverley Borough Councillors, Faith Forum

- Full Council considered and formally adopted Policy

Waverley advertised that it was consulting on the policy in the Surrey Advertiser on Friday 07 October 2016. with a final date for written comments of 18 November 2016 (6 weeks).

2.3 Policy reviews

This policy will be reviewed every five years or at such shorter periods as is felt necessary.

2.4 Sharing of Information

The Council will share with other enforcement bodies, information supplied by applicants, or acquired in the course of exercising licensing functions, where it is lawful to do so. In particular, personal information will only be disclosed in accordance with the Data Protection Act 1998. This may include requests from the Audit Commission or other regulatory agencies where this is necessary for the detection or prevention of crime or required by law or in connection with legal proceedings. Where applicable, it will be under the relevant Information Sharing Protocol.

2.5 Policy Application

This document contains the policies adopted by Waverley Borough Council for the permits and licences. These policies will normally be applied in every case but where there are exceptional or unusual circumstances then these policies and conditions may be departed from. Any departure from these policies will only be as approved by the Head of Democratic and Legal Services.

2.6 Enforcement

Failure to comply with legislative requirements is an offence. In determining what enforcement action to pursue in respect of offences, regard will be had to the individual circumstances, the Council's policies with regard to enforcement and other national guidance, such as the Crown Prosecutor's Code of Practice.

2.7 Legal Interpretation

This document contains advice regarding the legal interpretation as to what constitutes a sex establishment and other matters such as when a licence may be required, and how applications may be made. However, this document should not be considered to be an authoritative statement of the law. The statute law is more authoritative but ultimately, interpretation of the law is a matter for the Courts.

2.8 Other Legislation

Planning, Building Control and alcohol licensing regimes are separate licensing processes. An application for a sex establishment licence cannot be a re-run of a planning application or of an application under the Licensing Act 2003 as different considerations will apply. However, the granting of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control consent, a premises licence or any other licence or consent.

The Licensing Act makes requirements for a Premises Licence, in general terms, where alcohol is sold or supplied, where films are shown or where entertainment, including live entertainment, is provided and a licensed sex establishment does not exempt an organiser from also having any necessary licences under the Licensing Act 2003 (as amended).

There are circumstances when another licence or consent, such as a planning consent, will impose conditions different to those imposed by a licence for a sex establishment. Where this happens whichever regime has the more restrictive conditions on a particular aspect is the requirement that must be complied with. For example where a planning consent and a sex establishment impose different opening times then whichever are the more restrictive opening time are those which must be followed.

2.9 Crime and Disorder Act 1998

Section 17 of the Crime and Disorder Act imposes a duty on the Council to exercise its functions with due regard to the prevention of crime and disorder, including antisocial behaviour, the misuse of drugs, alcohol and other substances. In considering applications regard will be had as to whether the premises may contribute to any of these aspects.

2.10 Equality Act 2010

Section 149 of the Equality Act obliges Councils to have due regard to the need to eliminate discrimination, harassment, and victimisation; to advance equality of opportunity between sexes and to foster good relations between the sexes. In applying this policy this authority will seek to:
protect performers from harassment and any threat to their dignity by requiring proper supervision and facilities,
ensure that women are as welcome in licensed premises as men are,
ensure that the fears of women using the vicinity of the premises are considered in decisions as to the location of licensed premises.

3 Appropriate Number

The legislation allows for a local authority to determine the number of sex establishments which it considers appropriate for that locality. Waverley Borough Council has not determined any localities nor have they adopted an appropriate number for any such localities.

4 Video Sales

18R videos may only be sold from a licensed sex shop. The fact that the sales of such videos may constitute a very small part of the shop sales and that the shop would otherwise not constitute a sex shop is not relevant. Such videos may not be supplied by way of mail or telephone order.

5 Sex establishment definition

The definition of a sex establishment includes a sex shop, a sex cinema, or a sexual entertainment venue.

5.1 Sex shop

A sex shop is defined as meaning any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- sex articles,
- other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity, or
- acts of force or restraint which are associated with sexual activity.

No single factor is decisive when considering whether a shop sells sex articles to a significant degree. In deciding what constitutes a sex shop, each case will be judged on the individual facts but the following criteria may be taken into account when determining the question of “significant degree”.

- The absolute number of items offered for sale i.e. numbers of different sex articles offered for sale compared to the number of different non sex articles offered for sale. In this context where the number of sex articles exceeds 20% of total number of items for sale this would be considered to be significant. Where sex articles are sold in multiple packs then the multipack will be considered as one item.
- The absolute number of items sold i.e. numbers of different sex articles sold compared to the number of different non sex articles sold. In this context where the number of sex articles exceeds 20% of total number of items sold this would be considered to be significant. Where sex articles are sold in multiple packs then the multipack will be considered as one item.
- The character of the remainder of the business.
- The floor area occupied by displays of sex articles as opposed to the floor area occupied by non sex articles. In this context floor area means the display and adjacent walkways. Where a floor area occupied by displays of sex articles exceeds 20% of the area occupied by displays of non sex articles then this would be considered significant.
- Whether sex articles can be seen by members of the public without them having to enter the shop either because the articles are in a window display or can be seen through the shop doors.
- Gross sales, in financial terms, of sex articles as compared with non sex articles. In this context where the sales of sex articles exceeds 20% of the total sales then this would be considered to be significant.

Where a large premises is used by a number of stallholders, some of whom sell sex articles, then the use of the large premises as a whole will be considered.

5.2 Sex cinemas

This means, principally and in summary, any premises vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures which portray, deal with or relate to, or are intended to stimulate sexual activity or acts of force or restraint associated with sexual activity. This does not include a dwelling to which the public are not admitted thus excluding videos etc played by a person in their own home.

5.3 Sexual Entertainment Venue

In summary, this means any premises where relevant entertainment is provided before a live audience for the financial gain of the organiser or the performer and which is a live performance, or live display of nudity, which can be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating the audience.

Display of nudity means;

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

“Audience” includes an audience of one.

“Premises” includes any vessel vehicle or stall.

Sexual entertainment venues are likely to include any premises, vehicle, vessel or stall which provides lap dancing, pole dancing, table dancing, strip shows, peep shows, or live sex show.

6 Exemptions

The sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control, or which primarily relate to birth control, do not fall within the definition of a sex article. In this context where an article has been designed to act both for the purposes of birth control and to act as a stimulant then the article will be taken to fall within this exemption.

A licence for a sexual entertainment venue is not required where:

- relevant entertainment has not been provided on more than eleven occasions in any twelve month period and
- on no occasion did the entertainment last more than 24 hours and
- on no occasion was relevant entertainment provided within one month of the of any previous such entertainment

By virtue of Section 11A of the Licensing Act 2003 the provision of relevant entertainment at a premises where a licence as a sexual entertainment venue is required, regardless of whether the requirement has been waived, is not

regarded as the provision of regulated entertainment under the provisions of the Licensing Act 2003.

7 Waivers

Under the provisions of Paragraph 7 of Schedule 3 of the Act, the Council may waive the requirement to hold a licence in any case where it is considered that to require a licence would be unreasonable or inappropriate. Waivers may be for such period as the Council think fit but may be terminated at any time 28 days after notice of termination is given. The power to grant such waivers has been delegated to the Head of Democratic and Legal Services in consultation with the Chairman of the Licensing Committee.

A waiver might be appropriate where the premises are to be in place for a limited period, e.g. an exhibition where sales are made, and where controls are in place which would be similar to those imposed by a licence.

8 Applications

8.1 Submission of an Application

An application for a sex establishment licence must be made in writing on the application form included at Appendix One, must be accompanied by the relevant fee and by a plan of the premises proposed to be licensed at a scale of not greater than 1:100 with the area to be licensed outlined in red, together with a location plan drawn at a scale of not less than 1:1250. If the payment is invalid the application will be considered invalid. Applications may be lodged electronically but the application will not be considered as being validly lodged until such time as the fee has also been paid.

8.2 Application fees

An application for the grant, renewal, variation, transfer or change of licence details of a licence shall be accompanied by the appropriate fee. (Please contact the licensing department for details of current fees)

Where an application is refused, or is withdrawn before being determined, the application fee will be retained although a refund of that element relating to enforcement of a licence may be made.

8.3 Advertising Applications

8.3.1 Newspaper advertisement

The application must be advertised by the applicant using the form contained at Appendix 2. Such advertisements must be made by publishing the advertisement in a local newspaper (a local paper which has been agreed with the Licensing Department) circulating in the Waverley area. The

advertisement shall be published not later than seven days after the date of the application to the Council.

8.3.2 Local advertising

The applicant shall also place notices on or near the premises to which the application relates and where they can conveniently be read by the public using the form of notice contained at Appendix 3. Such notices shall be a minimum of A4 in size with the text printed as a minimum of 14 point. The notice shall be printed in black on yellow paper. These notices shall be displayed for a minimum of 21 days beginning with the date that the application is made to the Council. Where a notice is removed or vandalised it shall be replaced by the applicant, forthwith. If a notice is posted, then removed and not replaced by the applicant and is absent for a substantial part of the 21 days then the application may be deemed to be invalid and the applicant may be required to start the advertising period again.

8.3.3 Council website

Applicants should be aware that the Council will advertise the receipt of an application on our website. Similarly details of licences issued by the Council will also be placed on the Council's website.

8.4 Consultations

8.4.1 Copies to the Police

A copy of any application for the grant, renewal or transfer of a licence shall be sent to the Police within 7 days of the application being made to the Council. Where the application is made electronically this will be done by the Council, where the application is submitted by any other means the responsibility for giving copies of the application to the Police is that of the applicant.

On receipt of your application consultation will be carried out with the Police, and the Council may pass applications to other relevant authorities and take their views into account .

Other relevant authorities may be;

- a/ Fire Authority
- b/ Trading Standards
- c/ Health & Safety at Work
- d/ Local Planning Authority
- e/ Local Authority – Environmental Health
- f/ Protection of Children from Harm
- g/ Licensing Authority (other than relevant licensing authority) in whose area part of the premises is situated.

In addition consultation will, *where practicable*, be undertaken with local residents associations, parish councils, local ward members and in some cases neighbouring properties/residents.

8.4.2 *Police observations.*

In considering any application for the grant, renewal or transfer of any licence the Council will take into account any observations made to it by the Police or other relevant authority or persons it has consulted with.

8.5 **Objections**

Any person objecting to an application for the grant, renewal, or transfer of a licence shall give notice in writing of their objection to the Licensing Department of the Council stating in general terms the grounds of their objection not later than 28 days after the date of the application. Where the Council receive such an objection they shall inform the applicant of the general terms of the objection before considering the application. The Council will not, without the consent of the objector, reveal the name or address of the objector when they notify the applicant. In considering any application for the grant, renewal or transfer of any licence the Council will take into account any objections received by the Council.

8.6 **Sub-Committee Hearings**

All applications will be placed before a Sub Committee of three Councillors chosen from members of the Licensing Committee, regardless of whether any objections or observations have been received. Councillors, in whose ward the premises are, or will be, located, shall not sit on any Sub Committee hearing the application.

The Council shall afford an applicant for the grant, renewal, transfer or variation of a licence an opportunity to be heard by the Licensing Sub Committee before refusing such an application.

Any valid objector, or the Police, shall be permitted to be heard at any hearing and they may be represented at the hearing so long as they shall have either notified the Council in writing as to who their nominated representative is or else nominates them in person at the hearing. Only objectors who have lodged an objection in writing with the Council within 28 days of the application having been made to the Council shall be considered to be a valid objector. If objectors do not wish to speak before the Sub Committee then their written objections shall be taken into consideration.

The hearing shall consist of a conversation between the applicant and the Sub Committee, and the objectors and the Sub Committee and no examination or cross examination between the applicant, or their representatives, and the objector, or their representatives, shall be permitted.

An agenda for the meeting of the Sub Committee will be prepared which will include the salient points of the application, objections to the application and any observations received from the Police.

The order of hearing for such a Sub-committee hearing will be:

- Introduction of the parties present;
- Outline by the Licensing Officer of the application under consideration;
- Sub-committee Members to ask questions of the Licensing Officer;
- Applicant to address the Sub-committee regarding the application;
- Licensing Officer to ask questions of the applicant;
- Sub-committee Members to ask questions of the applicant;
- Objectors, if any, to the application to make representations regarding the application;
- Licensing Officer to ask questions of the objectors, if any;
- Sub Committee to ask questions of the objectors, if any;
- Objectors to make closing statement
- Licensing Officer to make closing statement;
- Applicant to make closing statement;
- Sub-committee will withdraw to consider their decision; and
- Sub-committee will announce their decision together with reasons for their decision

Where there are a number of objectors then the Chairman of the Sub Committee may, at his discretion, limit the amount of time that each objector wishing to be heard will have in which to make his representation. Similarly the Chairman of the Sub Committee may also limit the amount of time which the applicant will have in which to present their application.

8.7 Adjournments of hearings

Where an application is made to the Council for an adjournment of a hearing then an adjournment will generally be granted where not granting the adjournment would deny the applicant or objectors a fair hearing. Where the reason for the adjournment was reasonably foreseeable or alternative arrangements could be made to allow the hearing to proceed an adjournment is unlikely. Each application for an adjournment will be judged on its individual merits.

8.8 Criteria for determining an application

The Council will not take into account whether the granting of a licence may cause offence. To do so is not legal.

The Council will take into account those conditions which would require it to refuse a licence, as set out in Appendix Six.

The Council will take into account the following criteria since they are the only grounds specified in the Act for refusal of a licence application.

8.8.1 Fitness of the Applicant

The grounds of refusal detailed under Paragraph 12 (3)(a) attached at Appendix 6 include that the applicant is unsuitable by reason of having been convicted of an offence or for any other reason.

An applicant must, therefore, be a fit and proper person to hold a licence. In determining an applicant's suitability for a new licence, or a transfer of an existing licence, the Sub-Committee will take into account:

- The relevant knowledge and experience of the applicant
- Information resulting from the operation of any existing or previous licence(s) held by the applicant in this or any other Council area
- Any report about the applicant or the conduct of licensed premises received from statutory objectors.

Whilst every application will be considered on its merits, the Council is unlikely to grant an application from any person, or for the benefit of any person, with criminal convictions, cautions, etc.

The Rehabilitation of Offenders Act 1974. In considering applications convictions which are relevant to the licensing of the premises and which are serious in nature may be taken into account.

8.8.2 Licence Holder

If the licence were to be granted, renewed or transferred whether the business would be managed or carried on for the benefit of a person other than the applicant. If this is the case the Council will consider whether that person would themselves be refused the grant, renewal or transfer of the licence if they had made the application themselves.

8.8.3 Number of sex establishments

The Council may determine that for a particular locality that there is an "appropriate number" for the number of sex establishments and may refuse an application if this were to mean that the appropriate number was equalled or exceeded. The Council has not set an appropriate number of sex establishments either for the whole Borough or for any part of the Borough.

8.8.4 Locality and Premises Policy

The Council will consider whether the grant or renewal of a licence would be inappropriate having regard to the following topics.

8.8.4.1 Character of the locality

The Council will consider the premises use and its impact on the character of the locality.

The Council will, in particular, take the following matters into account:

- a) type of activity i.e. sex shop, sex cinema or sex encounter venue,
- b) duration of proposed licence,
- c) proposed hours of operation,
- d) layout and condition of the premises.

8.8.4.2 Premises in the vicinity

The Council will consider the use to which any premises in the vicinity are put. Where the licensed premises are within a larger complex e.g. shopping centre or multi-use building, this will include the nature of other activities carried on within the complex or building.

Whilst every application is considered on its merits the Council will not normally grant an application where the premises, vehicle, vessel, or stall is located within:

- areas that are exclusively, or predominantly, residential in character; or
- the vicinity of residential properties or
- premises, areas or access routes to such areas which are designed for or attract children or families, such as school, play areas, parks, children's centres, youth clubs, nurseries or leisure facilities, or similar establishments or
- 200 meters of a school or any other premises used by children or vulnerable adults or
- a publicly accessible open space that is regularly frequented by children or vulnerable adults or
- 200 meters of a place of worship or
- Any facilities used for cultural or leisure activities (e.g. museums, art galleries, libraries) or
- educational establishments or
- community facilities and public buildings or
- any area which is a focus for tourist activity or
- areas with a history of and/or a current level of recorded crime or social difficulties that give the police cause for concern; or
-
- areas that are likely to be adversely affected due to the cumulative impact of sex establishments or
- 200 meters of an existing sex establishment.

8.8.4.3 Premises Layout

The Council will consider the layout, character or condition of the premises, vehicle, vessel, or stall in respect of which the application is made. This may include:

- condition of the premises
- proposed external appearance including signs, advertising, window layout and design
- visibility of the internal areas from outside, including window and door blinds, and lobbied areas for access and egress to any public area or street
- seating and stage layout
- booths or cubicles within the premises
- provision of sanitary accommodation
- provision for facilities for performers including dressing rooms, sanitary accommodation, and separate staff entrances
- access from or to other unlicensed parts of the building where the premises do not form a detached building

- ease of access for the disabled.

8.8.4.4 Relevant locality

In this context locality does not mean the Borough as a whole. Locality will start with the proposed location in the context of its surrounding area. The Council will not define the locality using strict boundaries on a map nor by placing the premises at the centre of an imaginary circle.

8.9 Standard Conditions

If a licence application is granted then the licence will be subject to standard terms and conditions as set out in Appendix 5 unless either:

- the applicant has applied for these to be varied or omitted and such an application has been granted by the Sub-Committee determining the application or
- the Sub-Committee have themselves decided to vary or omit any of the standard conditions.

8.10 Duration of licences

All licences granted shall remain in force for a period of one year or such shorter period as the Sub Committee think fit.

8.11 Grounds for Refusal

Details of the grounds under which the Council may refuse a licence are set out in Appendix 6.

8.12 Statements of Reasons for decisions

Where an application for the grant, renewal, transfer or variation of a licence is refused or granted with conditions or varied conditions, the Council will provide a statement in writing of the reasons for their decision within 7 days of the completion of the Sub Committee hearing.

9 Appeals

Subject to the detailed provisions contained within the Act, the following persons may usually make an appeal against the decision of a Licensing Sub Committee

- an applicant for the grant, renewal or transfer of a licence whose application is refused,
- an applicant for the variation of a licence whose application is refused,
- the holder of a licence who is aggrieved by any condition of the licence,
- the holder of a licence whose licence is revoked.

Appeals must be lodged within 21 days of the date on which the holder of the licence or the applicant is notified of the decision of the Licensing Sub Committee. Appeals must be lodged with the Guildford Magistrates Court, Mary Road, Guildford, Surrey GU1 4AS, 01483 405300.

10 Variation of Licences

A licence holder may apply to the council for a variation of their licence. Such applications will be heard by a Licensing Sub Committee of the Council following the same hearing procedure as if it were a new application. An application for a variation to a licence is not required to be advertised by the applicant but applicants should be aware that such applications will be placed upon the Council's website. Whilst the Sub Committee will receive a report from Council officers concerning the application it is not legally possible for the Police or members of the public to object to such applications.

11 Renewals and Transfers

Where an application is made for the renewal of a licence which is received by the Council before the date of expiry of the existing licence then the existing licence will remain in effect until either the withdrawal of the application or its determination by the Council.

Where a licence has been granted to any person then the Council may, if they think fit, transfer that licence to any other person on the application of that other person.

Applications for the renewal or transfer of licences for premises must be advertised both in local newspapers and on or near the premises.

12 Cancellation of Licences

The Council must cancel a licence for a sexual entertainment venue if asked to do so by the holder of the licence.

13 Revocation of Licences

The Council may, after giving the holder of a licence an opportunity of appearing before, and being heard by, a Licensing Sub Committee revoke the licence. The grounds for revocation are as set out in Paragraph 17 of Schedule 3 of the Act. Where a licence is revoked the Council will send, within seven days of their notifying the licence holder of the revocation, a statement of the reasons for the revocation.

14 Offences

Offences under Paragraphs 20, 21 and 23 of Schedule 3 of the Act are punishable on conviction by a fine not exceeding £20,000.

These offences include:

- Permitting premises to be used without a licence
- Employment by a licensee of anyone disqualified from holding a licence
- Contravening the conditions of a licence
- Knowingly making a false statement in connection with an application for the grant renewal or transfer of a licence
- Allowing someone under the age of 18 to enter a licensed premises
- Employing someone under the age of 18 in the business of the establishment.

15 Amendments to the Policy

The Head of Democratic and Legal Services, in consultation with the Chairman of the Licensing Committee, shall have the power to make minor amendments to this policy.

16 Appendix One - Application Form for New, renewal, transfer or variation of a Licence

**Local Government (Miscellaneous Provisions) Act 1982,
Section 2 and Schedule 3**

**Application for a new, or renewal of, or transfer of, or variation of a
Sex Establishment Licence**

You are reminded that if you make a false statement in connection with this application which you know to be false in any material respect or which you do not believe to be true you will be guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.

(Please use BLOCK CAPITALS and black ink only)

Applicant's Full Name:	
Have you ever been known by any other names? If Yes, state previous names	YES/NO
Address:	
Postcode:	
Telephone:	
Date of Birth	

or if the application is by a corporate body or unincorporated body:

Company's Full Name:	
Address of Registered Office or Principal Office:	
Postcode:	
Telephone:	

Names and private addresses of the Directors or other persons responsible for its management:

Name	Address

I Hereby make application for 1.the waiver of a requirement for a licence / 2.the grant / 3.renewal / 4. transfer / 5. variation of conditions of a licence, for the use of the premises; (delete as appropriate)

Known As;

Vehicle / vessel / stall to be situated at:

As a sex establishment (being a sex shop / sex cinema / sexual entertainment venue) as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. If for variation, indicate proposals on a separate sheet

Please state whether any of the following have been convicted of a criminal offence or received an official caution and if so please supply details on a separate sheet

Yourself	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
The Company	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Any of the Company's Directors	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Any other person responsible for the management of the business the subject of this application	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

Have you within a period of 12 months immediately preceding the date of this application, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall the subject of this application?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
--	-----	--------------------------	----	--------------------------

Have any goods owned by yourself or by the Company ever been the subject of a forfeiture order made pursuant to the Obscene Publications Act 1959?	Yes		No	
--	-----	--	----	--

Does the applicant intend to operate the sex establishment in conjunction with any other licence? If so , provide details below.	Yes		No	
---	-----	--	----	--

--

FOR NEW APPLICATIONS ONLY
State proposals for preventing nuisance to residents and businesses in the vicinity;
State proposals for promoting public safety;
State proposals for preventing crime and disorder;
State proposals for protecting children from harm;

Proposed operating days	Opening from	Closing times
--------------------------------	---------------------	----------------------

Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

Sexual Entertainment Venues only				
Do you have a code of practise for performers (If yes attach a copy to the application)	Yes		No	
Do you have written rules (displayed) for customers (If yes attach a copy to the application)	Yes		No	
Do you have a policy for the Welfare of Performers (If yes attach a copy to the application)	Yes		No	

Please state any further information you wish Waverley Borough Council to take into account.

I / we hereby undertake:

1. To publish an advertisement in the local newspaper (a local paper which has been agreed with the Licensing Department) circulating in the area of the premises in the form prescribed by the Council giving public notice of this application not later than 7 days after the date hereof and to supply you with a copy within 14 days.
2. To display a notice in the form prescribed by the Council on or near the premises the subject of this application and in a place where the notice can conveniently be read by the public, for 21 days beginning with the date of this application. A copy of the notice is attached hereto.

3. To send a copy of this application to the Chief Officer of Surrey Police, (P.O. Box 101, GU1 9PE),

I / we hereby certify that the fee of £ required by the Council is enclosed. We will accept payment by credit/debit card (by phone or in person) or cheque payable to "Waverley Borough Council".

I / we hereby agree to the Council making enquiries of the Police concerning this application.

I / we have checked these replies and confirm that they are true and accurate.

In respect of a new application I enclose a plan of the premises at a scale not less than 1:50, with the area to be licensed outlined in red, and a location plan drawn at a scale of not greater than 1:1250.

The Council is under a duty to protect public funds and may use the information you provide in this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

Signed: Date:
.....

Name (please print).....

17 Appendix Two – Newspaper advertisement

The following should be used as the form of advertisement of an application in a local newspaper (a local paper which has been agreed with the Licensing Department) circulating in the Waverley area. Please omit text in square brackets and the square brackets, as appropriate.

NOTICE OF APPLICATION FOR A SEX ESTABLISHMENT LICENCE

Take notice that on *[insert date application was made to the Council]* an application was made to Waverley Borough Council under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 for a licence to use the premises whose address is: *[insert address of premises]* as a *[sex shop][sex cinema][sexual entertainment venue]*.

Any person wishing to make objections against the application should write to Waverley Borough Council, stating in general terms the grounds of the objection. This must be received by the Council within 28 days from the date of the application, as given above. Objections received after this date will not be considered.

Objections should be addressed to: Licensing Department, Waverley Borough Council, Council Offices, The Bury's, Godalming, Surrey GU7 1HR

Please see the Waverley Borough Council website at www.waverley.gov.uk for details of their policies on sex establishment licensing and objections to applications.

**NOTICE OF APPLICATION FOR
A SEX ESTABLISHMENT LICENCE**

Take notice that on

(insert date application was made to the Council)

an application was made to Waverley Borough Council under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 for the grant* / renewal* / transfer* of a licence to use the premises, whose address is:

(insert address of premises)

as a sex shop*, sex cinema*, sexual entertainment venue.*

Any person wishing to make objections against the application should write to Waverley Borough Council, stating in general terms the grounds of the objection. This must be received by the Council within 28 days from the date of the application, as given above. Objections received after this will not be considered.

Objections should be addressed to:

**Licensing Department,
Waverley Borough Council,
Council Offices,
The Bury's, Godalming,
Surrey GU7 1HR**

Please see the Waverley Borough Council website at www.waverley.gov.uk for details of their policies on sex establishment licensing and objections to applications.

Signed: _____

Name of applicant (please print)

*** On behalf of**

* Delete where appropriate

19 Appendix Four – Scheme of Delegation of Powers

The adoption of powers to deal with the provisions of the Local Government (Miscellaneous) Provisions Act 1982 were the subject of a report to the Licensing Committee of the Council on 22 March 1983 . The recommendations of that Committee were subsequently adopted by the Council at its meeting on 12 April 1983.

As a consequence the Council have delegated powers to deal with the provisions of the Act as follows.

To the Licensing Committee:

1. to undertake the functions relating to the licensing of sex establishments under the provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982;
2. to make and amend regulations prescribing standard terms, conditions and restrictions applicable to licences for sex establishments; and
3. to make and amend policies relating to the licensing of sex establishments.

To the Licensing Sub-Committee:

1. to grant or refuse applications for the grant, renewal, or transfer of licences for sex establishments;
2. to grant or refuse applications for variations of licences or to make such variation as they think fit;
3. to attach such terms, conditions, and restrictions to licences as is seen necessary and appropriate;
4. to grant adjournments of hearings;
5. to give to an applicant for, or holders of, licences, statements in writing of their decisions; and
6. to revoke licences.

Head of Democratic and Legal Services:

1. to enforce the provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982;
2. to appoint Officers of the Council to enforce the provisions of Part II and Schedule 3 of the Act;
3. to exercise the powers of entry, and to authorise Officers to exercise the powers of entry, conferred by paragraph 25 of Schedule 3 of the Act;
4. to apply for and to authorise Officers to apply for warrants to enter premises under paragraph 25 of Schedule 3 of the Act;
5. to determine whether any premises, vessel, vehicle or stall constitutes a sex establishment under the provisions of the legislation;
6. in consultation with the Chairman of the Licensing Committee, to waive the requirement for a licence in any case where it is considered that to require a licence would be unreasonable or inappropriate, to determine what period such a waiver shall apply for, and to terminate such waivers in accordance with paragraph 7(7) of Schedule 3;
7. to determine what particulars may be required in connection with an application;

8. to determine the form which notices given under paragraphs 10 (11) and 10 (12) of Schedule 3 of the Act shall take;
9. to determine whether objections given to the authority are valid or not;
10. to give notice to applicants of objections received;
11. to have regard to observations submitted to the authority by the Police;
12. to transfer licences;
13. to refer to a Licensing Sub-Committee any licence where Officers consider that the licence should be revoked;
14. in consultation with the Chairman of the Licensing Committee, to refuse any application for the grant or renewal of a licence where the requirements of paragraph 12 (a) (b) (c) (d) (e) or 3(c) of Schedule 3 of the Act have not been met;
15. to cancel licences following the written request of the licence holder;
16. to determine the reasonable fee to be charged for supplying copies of standard terms, conditions and restrictions applicable to licences for sex establishments adopted by the Council;
17. to send copies of licences granted to the chief officer of Police for the area;
18. to consider applications for and to extend or further extend the period for which a licence shall remain in force after the death of a licence holder;
19. to determine fees for the grant, renewal, or transfer of licences in consultation with the Chairman of the Licensing Committee;
20. to enforce and prosecute offences under the provisions of Schedule 3 of the Act; and
21. to defend appeals taken against the Council under paragraph 27 of Schedule 3 of the Act.

20 Appendix Five – Standard Conditions

21 Sex shops - Standard Conditions to replace any already adopted

Standard Conditions which shall apply to sex shops.

GENERAL

1. The premises hereby licensed shall be used only for the purposes of a sex shop as defined by Schedule 3 paragraph 4(1) of the Local Government (Miscellaneous Provisions) Act 1982 and shall not be used either wholly or in part for any other purpose or purposes whatsoever during the period in respect of which this licence is granted.
2. The premises shall be open to members of the public during the hours of Monday to Friday, 10.00 a.m. to 8.00 p.m.; Saturday 9.00 a.m. to 6.00 p.m.; Sunday, 11.00 a.m. to 5.00 p.m.
3. Where the Licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager, are to be furnished within 14 days of a request in writing from the Council.
4. The Licensee or some responsible person nominated by him in writing for the purpose of managing the licensed premises in his absence and whose details have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Registers shall be kept on the premises showing the name and address of any person who is responsible for managing the sex establishment in the temporary absence of the person nominated pursuant to Licence condition 5.

The Licensee shall ensure that during the hours the sex shop is open to the public, every employee wears an identifying badge, of a type approved by the Council, indicating their name and that they are an employee.

5. The following written matter shall be clearly visible from outside the sex establishment:-
 - (i) The trading name of the premises as specified in the licence.
 - (ii) The hours of opening to the public.
 - (iii) The street number.
 - (iv) In each entrance or doorway to the licensed premises in a prominent position so as to be readily visible to any person approaching the premises with a view to entering therein but without their having so to enter a notice headed:

“WARNING” and stating “PERSONS PASSING BEYOND THIS POINT WILL FIND MATERIAL ON DISPLAY WHICH THEY MAY CONSIDER INDECENT. NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE”.

6. There shall be displayed above the entrance or main entrance to the premises hereby licensed a notice in permanent form in letters not less than 2 cm high (approximately $\frac{3}{4}$ ") stating 'LICENSED SEX SHOP - LICENSEE [*insert name of licensee*].
7. The Licensee shall ensure that the public are not admitted to any parts of the premises other than those which have been approved by the Council save in the case of an emergency.
8. Neither the Licensee nor any employee (or any person) shall seek to obtain custom for the sex shop by means of a personal solicitation outside the premises or in the vicinity of the premises.

PREMISES

9. No part of the interior of the premises where sex articles are displayed shall be visible to passers-by at any time. The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.
10. Alterations or additions either internal or external, whether permanent or temporary to the structure, lighting or layout of the premises, shall not be made except with the prior approval of the Council.
11. All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.
12. Lighting in all parts of the premises shall be to a level approved by the Council and shall be in operation continuously during the hours when the sex shop is open to the public.
13.
 - (i) The windows of the licensed premises fronting the pavement shall not be obscured other than with the consent of the Council, but shall have suspended behind them, in a position approved by the Council, such opaque blinds or screens or such other arrangements as approved by the Council.
 - (ii) Any such precautions as may be necessary shall be taken to maintain the screening of the shop windows during any cleaning operations.
 - (iii) Nothing shall be displayed in the windows of the shop other than items of lingerie and dresses.
 - (iv) No display or advertisement visible from the outside of the premises shall include a depiction or description of a sex article.
14. Displays, advertisement, words, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any other matter or thing (whether

illuminated or not) shall not be exhibited so as to be visible from the outside of the premises except:-

- (i) Any notice of a size and in the form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a Licence granted by the Council.
 - (ii) Such display, advertisement, words, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or thing as shall have been approved by the Council.
15. Doors and openings which lead to parts of the premises to which the public are not permitted to have access, shall have notices placed over them marked "Private – no access to the public".

FILMS AND VIDEOS

20. (i) No film or video shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video so certified.
- (ii) The screen of the television should be no more than 12 inches and placed in such a position so as not to be visible to the public outside the premises.
- (iii) The screen shall be placed in such a position to the satisfaction of the Council.
- (iv) Only videos of clips of other videos for advertising purposes shall be shown and no individual clip shall be shown for longer than three minutes.
- (v) No film or video will be shown in its entirety.
- (vi) All trailers shown are to be approved by the British Board of Film Classification.
- (vii) A warning notice will be placed adjacent to the screen stating "For staff use only" or "No customers allowed to operate".

21.1 Sex cinemas - Standard Conditions to replace any already adopted

Standard Conditions which shall apply to sex cinemas.

1. The premises hereby licensed shall be used only for the purposes of a sex cinema as defined by Schedule 3 paragraph 3 of the Local Government (Miscellaneous Provisions) Act 1982 and shall not be used either wholly or in part for any other purpose or purposes whatsoever during the period in respect of which this licence is granted.
2. The premises shall be open to members of the public during the hours of Monday to Friday, 10.00 a.m. to 8.00 p.m.; Saturday 9.00 a.m. to 6.00 p.m.; Sunday, 11.00 a.m. to 5.00 p.m.

3. Where the Licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager, are to be furnished within 14 days of a request in writing from the Council.
4. The Licensee or some responsible person nominated by him in writing for the purpose of managing the licensed premises in his absence and whose details have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Registers shall be kept on the premises showing the name and address of any person who is responsible for managing the sex cinema in the temporary absence of the person nominated pursuant to Licence condition 5.

The Licensee shall ensure that during the hours the sex cinema is open to the public, every employee wears an identifying badge, of a type approved by the Council, indicating their name and that they are an employee.

5. The following written matter shall be clearly visible from outside the sex establishment:-
 - (v) The trading name of the premises as specified in the licence.
 - (vi) The hours of opening to the public.
 - (vii) The street number.
 - (viii) In each entrance or doorway to the licensed premises in a prominent position so as to be readily visible to any person approaching the premises with a view to entering therein but without their having so to enter a notice headed:

“WARNING” and stating “PERSONS PASSING BEYOND THIS POINT WILL FIND MATERIAL ON DISPLAY WHICH THEY MAY CONSIDER INDECENT. NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE”.

6. There shall be displayed above the entrance or main entrance to the premises hereby licensed a notice in permanent form in letters not less than 2 cm high (approximately $\frac{3}{4}$ ") stating 'LICENSED SEX CINEMA - LICENSEE [*insert name of licensee*].
7. The Licensee shall ensure that the public are not admitted to any parts of the premises other than those which have been approved by the Council save in the case of an emergency.
8. Neither the Licensee nor any employee (or any person) shall seek to obtain custom for the sex cinema by means of a personal solicitation outside the premises or in the vicinity of the premises.

PREMISES

9. No part of the interior of the premises where advertisements or stills from films are displayed shall be visible to passers-by at any time. The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.
10. Alterations or additions either internal or external, whether permanent or temporary to the structure, lighting or layout of the premises, shall not be made except with the prior approval of the Council.
11. All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.
12. Lighting in all parts of the premises shall be to a level approved by the Council and shall be in operation continuously during the hours when the sex cinema is open to the public.
13.
 - (i) The windows of the licensed premises fronting the pavement shall not be obscured other than with the consent of the Council, but shall have suspended behind them, in a position approved by the Council, such opaque blinds or screens or such other arrangements as approved by the Council.
 - (v) Any such precautions as may be necessary shall be taken to maintain the screening of the shop windows during any cleaning operations.
 - (vi) Nothing shall be displayed in the windows of the shop other than items of lingerie and dresses.
 - (vii) No display or advertisement visible from the outside of the premises shall include a depiction or description of a film or any images derived from a film.
14. Displays, advertisement, words, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any other matter or thing (whether illuminated or not) shall not be exhibited so as to be visible from the outside of the premises except:-
 - (iii) Any notice of a size and in the form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a Licence granted by the Council.
 - (iv) Such display, advertisement, words, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or thing as shall have been approved by the Council.
15. Doors and openings which lead to parts of the premises to which the public are not permitted to have access, shall have notices placed over them marked "Private – no access to the public".

21.2 Sexual entertainment venues

Conditions relating to sexual entertainment venues

1. Total nudity (the exposing of genitals, anus, or pubic area) shall only be permitted on stage and at no other place in the premises.
2. No sex act shall take place as part of the entertainment.
3. The area proposed for striptease (involving complete nudity) shall:-
 - a) be in a position where the performance cannot be seen from the street.
 - b) be in a designated area of the premises with segregation from the audience.
4. The area proposed for lap dancing, table side dancing (involving partial nudity) shall be in a position where the performance cannot be seen from the street.
5. There shall be no physical contact between persons appearing on stage and the audience.
6. The entertainment shall be given only by performers/entertainers and the audience shall not be permitted to participate.
7. Persons appearing on stage shall have direct access to the dressing room without passing through or in close proximity to the audience.
8. Lap dancers/table side dancers shall immediately dress at the conclusion of each performance.
9. The licensee, performer and any person concerned in the organisation or management of the entertainment shall not encourage, or permit encouragement of the audience to throw money at or otherwise give gratuities to the performers (except as permitted by condition 11 below).
10. Entertainment provided by topless dancers to customers seated at tables may only take part in those parts of the premises approved by the Council. No audience participation shall be permitted.
11. There shall be no physical contact between customers and the dancers except for the placing of money or tokens into the hands of the dancer at the beginning or conclusion of the performance. Whilst the dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers. Notices to this effect shall clearly be displayed at each table and at the entrance to the premises.
12. Should a customer attempt to touch a dancer, the dancer must withdraw and report the matter to her / his manager / supervisor.

13. Topless dancers shall at all times wear a G-string or similar piece of clothing that covers the pubic area, genitals and anus.
14. The Licensee shall immediately investigate any report of contact, misconduct or provocation by a customer or dancer.
15. No telephone numbers, addresses or information leading to any further meeting may be passed from customer to dancer or vice versa.
16. No dancer may perform if they are drunk.
17. No member of the public shall be admitted or allowed to remain in the dance area if they appear to be drunk.
18. All members of the public shall remain seated in the dance area other than when they arrive, depart, visit the lavatory or go to the bar.
19. Members of the public shall not be permitted to congregate in the bar area for any purpose except to order or collect drinks from the bar.
20. Signs must be displayed at the entrance to the dance area stating:- “Any customer attempting to make physical contact with a dancer will be asked to leave”. Signs must be sufficient in size, legible and positioned so as to be read by all customers entering the dance area.
21. No dancer shall perform any sexually explicit or lewd act.
22. Whilst dancing takes place not less than [insert agreed number] Door Supervisors licensed by the Security Industry Agency shall be employed in the part of the premises used for dancing unless alternative arrangements are approved by the Council.
23. CCTV shall be installed to cover all areas where dancing will take place. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days and shall provide a record of the time and date stamping on the recording. Recordings shall be made available to an authorised officer of the Council or a Police Officer together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice.

22 Appendix Six - Grounds for Granting or Refusing an Application

1. Case-law has determined that the Licensing Sub Committee may not refuse a sex establishment licence solely on the ground that the establishment may cause offence. (*R v Coventry City Council ex parte Quitelynn Ltd (1985)*).
2. The local authority **must** refuse an application for a licence on any of the grounds listed in paragraph 12 of Schedule 3 to the Act. A licence shall not be granted to:
 - a) To a person under the age of 18;
 - b) To a person who is for the time being disqualified because they are a licence holder whose licence has been revoked within the previous 12 months;
 - c) To a person, other than a body corporate, who is not resident in the United Kingdom or who was not so resident throughout the period of six months immediately preceding the date when the application was made;
 - d) To a body corporate which is not incorporated in the United Kingdom; or
 - e) To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
3. The local authority **may** refuse to grant an application for a licence where any of the matters mentioned in paragraph 12 (2) and (3) of Schedule 3 of the Act apply. An application for the grant or renewal of a licence may be refused on any of the grounds listed below or on several of those grounds. An application for the transfer of a licence may be refused on either or both of the grounds listed in a) or b) below. An application for a variation may be refused but the Act does not specify on what grounds.
 - a) The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason.
 - b) That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself.
 - c) That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority considers is appropriate for that locality.
 - d) That the grant or renewal of the licence would be inappropriate, having regard to the:
 - i. character of the relevant locality; or
 - ii. use to which any premises in the vicinity are put; or

iii. layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Relevant locality means:

- a) in relation to the premises, the locality where they are situated; and
- b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

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WAVERLEY BOROUGH COUNCIL

GAMBLING ACT 2005

STATEMENT OF POLICY

Approved by the Waverley Borough Council on 11 December 2018

To be published on Website
To come into effect

03 January 2019
31 January 2019

All references to the guidance of the Gambling Commission to licensing authorities refer to the guidance published in October 2015 (last updated in September 2016).

WAVERLEY BOROUGH COUNCIL
GAMBLING ACT 2005
STATEMENT OF GAMBLING POLICY
IN FORCE FROM 31 JANUARY 2019

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1. Introduction

1.1 The Licensing Objectives

The Gambling Act 2005 (“the Act”) gives licensing authorities various regulatory functions in relation to gambling.

The Gambling Commission will have responsibility for dealing with personal licences and operating licences.

Waverley Borough Council (“the Council”) is the Licensing Authority for the purposes of the Act.

The main functions of licensing authorities are:-

- Licensing premises for gambling activities;
- Considering notices given for the temporary use of premises for gambling;
- Granting permits for gaming and gaming machines in clubs;
- Regulating gaming and gaming machines in alcohol licensed premises;
- Granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- Granting permits for prize gaming;
- Considering occasional use notices for betting at tracks;
- Registering small societies’ lotteries below prescribed thresholds.

In exercising most of their functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Certain activities such as bingo, raffles, some types of lotteries may be exempt from licensing, depending on the scale and frequency of the activity. In referring to “disorder” the Council will take account of activity and behaviour which is excessively aggressive and/or abusive to an extent beyond what might be regarded as nuisance.

1.2 The Waverley Borough Area

Waverley is a large rural borough, characterised by beautiful countryside, distinctive towns and villages, and includes high streets with character, protected green areas and a diverse business community. Waverley Borough covers an area of 345 square kilometres in south-west Surrey and is the largest district by geographic area in Surrey. The Borough is predominantly rural; three-quarters of the area is agricultural land and woodland, 61 per cent is Green Belt and 80 per cent is covered by environmental protection policies including the Surrey Hills Area of Outstanding Natural Beauty. Waverley is 35 miles from central London and is served by good strategic road and rail links but has a predominantly rural road network and limited public transport.

Waverley has a population of 121,572 (2011 census), of whom three-quarters live in the Borough's four main settlements; Farnham, Godalming, Haslemere and Cranleigh. The proportion of young people (0-14 years) is 20 per cent and is close to the regional and national averages. The district has 19. per cent of the population above pension age. The proportion of people from ethnic groups other than "white British" is 9.4 per cent; this compares with 14.8 per cent for the South East and 20 per cent for England.

The Council's Vision is " that Waverley borough will continue to be an attractive and prosperous place to live, work and visit. A place where our residents can take pride in their communities and where there are opportunities for all to thrive and lead healthy lives. A place that is valued by its community and supported by quality public services".

The Council recognises that the entertainment and leisure industry, and shopping, contribute to Waverley's urban and rural economies. These have a part to play in attracting tourists and visitors and are major employers ensuring that Waverley is an attractive and prosperous place to live, visit and work.

This policy statement will both guide the Council in exercising its licensing functions under the Gambling Act 2005 and provide clarity for applicants for licensing and for residents and others, including interested parties.

Applicants are required when submitting their licensing applications to show how their proposals will meet the Council's Policy, as shown in this Statement, and the Government's stated Licensing Objectives for gambling.

The Council is the Licensing Authority for the purposes of the Gambling Act 2005 ("the Act") and is responsible for granting licences, permits and registration in the Borough of Waverley for the activities described by the Act.

A map of Waverley Borough is attached as Annexe 1.

1.3 Consultation

This statement of policy has been prepared in consultation with the following persons/bodies:-

- The Chief Officer of Police;
- One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the Council's area;
- One or more persons who appear to the Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Gambling Act 2005.

A full list of consultees is attached as Annexe 3.

This Statement of Gambling Policy was published on, [03 January 2019
] and comes into effect on [31 January 2019
]. It will remain in force for no more than 3 years, but may be reviewed at any time.

1.4 Declaration

This statement of policy has been prepared with due regard to the licensing objectives, the guidance to licensing authorities issued in September 2015 (last updated September 2016) by the Gambling Commission, and with due weight attached to any responses received from those consulted.

This statement of policy will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

1.5 Responsible Authorities

The contact details of all the Responsible Authorities (public bodies that must be notified of applications and that are entitled to make representations) under the Act are available via the Council's website at www.waverley.gov.uk, and also listed at Annexe 2 to this document.

In exercising the Council's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Council about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area;
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group, etc.

Having regard to the above principles, the Council designates the Surrey Children's Service for this purpose.

1.6 Interested Parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. Section 158 of the Act defines interested parties as persons who, in the opinion of the Licensing Authority;

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) have business interests that might be affected by the authorised activities; or
- c) represent persons who satisfy paragraph (a) or (b) above.

Whether or not a person is an interested party is a decision that will be taken by the Council on a case-by-case basis. However, the following factors will be taken into account:-

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);

- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from their premises. For example, it could be reasonable for the Council to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults;
- the “catchment” area of the premises (i.e. how far people travel to visit); and whether the person making the representation has business interests in that catchment area, that might be affected.

This list is not exhaustive and other factors may be taken into consideration in an individual case.

The Council considers the following bodies/associations to fall within the category of those who represent persons living close to premises, or having business interests that might be affected by the authorised activities:-

- town and parish councils;
- trade associations;
- trade unions;
- residents’ and tenants’ associations;
- ward/county/parish councillors;
- Members of Parliament;
- School Head or Governor;
- Community Group.

This list is not exhaustive and the Council may consider other bodies/associations and persons to fall within the category in the circumstances of an individual case

The Council may require written evidence that the person/association/body represents an interested party.

1.7 Exchange of Information

The Council regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Council’s functions, and to maintaining confidence between the people/bodies we deal with and ourselves. We ensure that our organisation treats information lawfully and correctly.

The Council may share information in accordance with the following provisions of the Act and other Government legislation which may require the sharing of information: -

- Sections 29 and 30 (with respect to information shared between the Council and the Gambling Commission);
- Section 350 (with respect to information shared between the Council and the other persons listed in Schedule 6 to the Act).

In the exercise of the above functions, consideration shall also be given to the common law duty of confidence, the law relating to defamation, the guidance issued by the Gambling Commission and to the Council’s policies in relation to data protection and access to information (freedom of information).

The Council adopts the principles of better regulation and the Regulators' Code in the exercise of regulatory function, that is:-

Proportionality: The Council will seek policy solutions appropriate for the perceived problem or risk.

Accountability: The Council will ensure that its decisions may be justified and are open to public scrutiny.

Consistency: The Council will refer to policies, rules and standards that are consistent with its other functional responsibilities and are fairly implemented.

Transparency: The Council's policy objectives will be clearly defined and effectively communicated to all stakeholders.

Targeting: The Council will focus its policies on relevant problems, seeking to minimise side effects and avoid unintended consequences.

Any information shared between the Council and Surrey Police must also be carried out in accordance with the Surrey Information Sharing Protocol produced by the Surrey Community Safety Unit.

Any person wishing to obtain further information about their rights under data protection (General Data Protection Regulation 2016/679 and the Data Protection Act 2018) or access to information legislation may view the Council's policies at http://www.waverley.gov.uk/info/200031/data_protection_and_freedom_of_information or alternatively contact the Data Protection Officer or Information Rights Officer on (01483) 523333 or Email; dpo@waverley.gov.uk or foi@waverley.gov.uk

1.8 Enforcement

The Council adopts a risk-based approach to the inspection of gambling premises. This will allow for the targeting of high-risk premises, or those where a breach would have serious consequences so that resources are effectively concentrated. Premises that are low risk and/or well run will be subject to a less frequent inspection regime.

Where necessary, appropriate enforcement (including prosecution under section 346 of the Act) will be carried out in a fair and consistent manner in accordance with:-

- The Enforcement Concordat;
- The Better Regulation and Hampton Principles;
- Waverley Borough Council enforcement policies.

The Council has set up multi-disciplinary working groups to ensure the proper integration of local crime prevention, (e.g. Joint Action Group).

The Council has also set up a Joint Enforcement Initiative to protect the borough's environment by combating environmental crime, and to work more cohesively and effectively to enforce against anti-social behaviour. Waverley is committed to support Safeguarding Children and Vulnerable People. Waverley's Safeguarding Policy can be found at;

http://www.waverley.gov.uk/info/870/community_safety/920/safeguarding/1

And Safer Waverley Partnership Draft Partnership Strategy and Plan 2017-20 at;
http://www.waverley.gov.uk/downloads/file/5767/safer_waverley_partnership_SWP_partnership_and_strategy_plan_2017-2020

Providing the Licensing Authority with details of where a child or young person repeatedly attempts to gamble on their premises may provide the Licensing Authority with an opportunity to consider safeguarding concerns. The Licensing Authority continues to raise awareness in cooperation with Surrey Police of child sexual exploitation, via Operation Makesafe, amongst the business community. To date, efforts have been focused on providing awareness to hotels, taxi companies and licensed premises.

Larger operators are responsible for conducting/taking part in underage testing, results of which are shared with the Gambling Commission. Operators are encouraged to also make the results available to licensing authorities, as far as is practicable.

The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Gambling Commission.

The Council recognises that certain bookmakers have a number of premises in its area. In order to ensure compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Council a single named point of contact, who should be a senior individual, and whom the Council will contact first should any compliance queries or issues arise.

2. Premises Licences

2.1 Decision Making - General

In accordance with Section 153 of the Act, the Council shall aim to permit the use of premises for gambling in so far as it thinks it:-

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the Council's Statement of Gambling Policy.

The Council will not have regard to the expected demand for the facilities which it is proposed to provide, nor the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

Moral objections to gambling will not be considered by the Council, as they are not a valid reason for rejecting an application for a premises licence.

Each case will be considered on its individual merits. However, in order to assist applicants and objectors alike, this section sets out the general factors that will be

taken into account by the Council when considering applications for premises licences.

The Council's Scheme of Delegation sets out which of the Council's decision-making functions under the Act are delegated to officers.

2.2 Appropriate Licence Environment

The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (in effect from April 2018), set out additional matters that the Council should take into account when considering licence applications for premises licences.

Guidance section 19, Licence Conditions and Codes of Practice condition 16 and code 9 prescribe restrictions on gambling activities on premises, previously known as primary gambling activity. The council will consider any application based on the provisions in these codes and guidance.

2.3 Licence Conditions and Codes of Practice

Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

The Licence Conditions and Codes of Practice issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed. In particular operators must ensure that;

- All staff are trained
- That all customers are supervised when on gambling premises
- Must have procedures for identifying customers who are at risk of gambling related harm

The Council will expect all operators to have policies and procedures in place as required by the Licence Conditions and Codes of Practice on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The Council will take all conditions and codes into account when considering applications or performing enforcement activities.

2.4 Risk Assessments: Betting Premises

Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of Casinos, Adult Gaming Centres, Bingo Premises, Family Entertainment Centres, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

Operators are required by the Social Responsibility code to make the risk assessment available to licensing authorities when an application is submitted either for new premises licence or variation of a premises licence, or otherwise on request,

and this will form part of the Council's inspection regime and may be requested when officers are investigating complaints.

This Council expects the following matters to be considered by operators when making their risk assessment:-

- Information held by the licensee regarding self-exclusions and incidences of underage gambling
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities etc.
- Matters realign to children and young persons, including:
 - Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling alleys, cinemas etc.
 - Any premises where children congregate including bus stops, cafes, shops, and any other place where children are attracted
 - Areas that are prone to issues of youths participating in an anti social behaviour, including such activities as graffiti/tagging, underage drinking etc.
 - Recorded incidents of attempted underage gambling
- Matters relating to vulnerable adult including:-
 - Information held by the licensee regarding self-exclusions and incidences of underage gambling
 - Gaming trends that may mirror days for financial payments such as pay days or benefit payments
 - Arrangement for localised exchange of information regarding self exclusions and gaming trends
 - Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctors' surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate

2.5 Location

The location of premises may be relevant to the promotion of the licensing objectives. In particular, premises located in close proximity to the following may give rise to concern:-

- schools and colleges;
- vulnerable adult centres;
- residential areas with a high concentration of children.

Much will depend upon the type of gambling that it is proposed will be offered on the premises. The Council will, where appropriate, consider the location on a case-by-case basis. If the proposed location does pose a risk to the promotion of the licensing objectives, applicants will be invited to show how they propose to overcome such concerns.

2.6 Multiple Licences/Layout of Buildings

Premises are defined in the Act as including “any place”, but no more than one premises licence can apply in relation to any one place. A single building can be subject to more than one premises licence, provided they are for different parts of the building and those parts can reasonably be regarded as being “different premises” for the purposes of the Act.

Operators must ensure that their policies and procedures take account of their structure and layout of the premises.

Where multiple licences are sought for a building (or a discrete part of a building used for other non-gambling purposes), specific issues will need to be considered by the Council before such application(s) can be granted. These include:-

- the ability of children to gain access to or observe gambling facilities (even accidentally) – entrances and exits from parts of a building covered by more than one premises licence should be separate and identifiable so that the separation of different premises is not compromised and so that people (and, in particular, children) do not drift into a gambling area;
- whether entrances are supervised;
- the compatibility of the two or more establishments; and
- the ability of the establishments to comply with the requirements of the Act.

In accordance with the Gambling Commission guidance, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

2.7 Conditions

Conditions may be imposed by the Licensing Authority upon a premises licence in a number of ways. These are:-

- (a) **Mandatory** – set by the Secretary of State (some set out on the face of the Act) and some to be prescribed in regulations, for all, or classes, of licences;
- (b) **Default** – to be prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the Licensing Authority;
- (c) **Specific** – conditions that can be attached to an individual premises licence by the Licensing Authority.

Conditions imposed by the Council will be proportionate to the circumstances that they are seeking to address. In particular, this Council will ensure that premises licence conditions:

- Are relevant to the need to make the proposed building suitable as a gambling facility;
- Are directly related to the premises and the type of licence applied for;
- Are fairly and reasonably related to the scale and type of premises; and
- Are reasonable in all other respects.

Certain matters may not be the subject of conditions. These are:-

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winnings or prizes.

2.8 Door Supervisors

It is not a mandatory requirement of the Act to impose a condition relating to door supervision. However, if in any particular case the Council does consider it necessary to impose a condition on a premises licence requiring the presence of door supervisors, such persons would normally need to hold a licence from the Security Industry Authority under the Private Security Industry Act 2001.

This requirement is relaxed when applied to door supervisors at licensed casino or bingo premises. Where 'contract' staff (those employed under a contract for services) are employed as door supervisors at casino or bingo premises, such staff will need to be licensed by the SIA. 'In-house' staff (those staff employed under a contract of service) operating as door supervisors at casino and bingo premises are exempt from the licensing requirements of the Private Security Industry Act 2001. The Council may, however, impose specific requirements on door supervisors at such premises, if considered appropriate in an individual case.

2.9 Adult Gaming Centres

Persons operating an adult gaming centre must hold a 'gaming machines general operating licence (adult gaming centre) from the Commission and a premises licence from the Council. This will allow the operator to make available any number of category C and D machines and; to make available a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises.

Premises in existence before 13 July 2011 are entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

Adult gaming centre premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four category B3/B4 gaming machines or 20% of the total.

No one under the age of 18 is permitted to enter an adult gaming centre.

In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.

Applicants are encouraged to consider the following steps:-

- Proof of age schemes;
- Closed Circuit Television ;
- Supervision of entrances/machine areas;
- Reviewing the location of, and entry to, premises (so as to minimise the opportunities for children to gain access);
- Notices/signage;
- Training for staff on challenging persons suspected of being under-age;
- Specific opening hours;
- Self-barring schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures and good practice.

Please see paragraph 2.4 for details of conditions that may be attached to premises licences authorising adult gaming centres.

2.10 Licensed Family Entertainment Centres

Operators of licensed family entertainment centres must hold a gaming machine general (Family Entertainment Centre) operating licence (Family Entertainment Centre) from the Gambling Commission, and a premises licence from the Council. This will allow the operator to make category C and D machines available to their customers.

Children and young persons will be able to enter licensed family entertainment centres and play on the category D machines. They will not be permitted to play on category C machines.

As family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are available in licensed family entertainment centres the Council will normally require that:-

- all such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder;
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18; and
- provision of information leaflets/helpline numbers for organisations such as GamCare.

Applicants are therefore encouraged to consider the steps set out at paragraph 2.6 of this statement in order to prevent children and young persons from gaining access to category C machines. In addition, applicants are encouraged to consider the following:-

- Physical separation of areas;
- Measures/training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

Please see paragraph 2.4 for details of conditions that may be attached to premises licences authorising licensed family entertainment centres.

2.11 Tracks

Tracks are sites (including racecourses and dog tracks) where a race or other sporting event is intended to take place or takes place. Operators of tracks will require a premises licence from the Council, but they do not need to obtain an operating licence from the Gambling Commission (although they may have one).

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

It will be a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided, and any area where a gaming machine, other than a category D machine, is situated. Special dispensation from this rule is provided for dog tracks and horse racecourses, on days when racing takes place, in relation to the areas used for betting. On these days families will be entitled to attend the track or racecourse, and children enter the areas where facilities for betting are provided. This “race day dispensation” does not apply to the areas where gaming machines of category B and C are provided, and the Council will therefore wish to ensure that suitable measures are in place to prevent children from entering such areas.

Applicants are encouraged to consider the steps set out at paragraph 2.6 in order to prevent the access of children and young people to machines of category B and C. In addition, applicants are encouraged to consider the following:-

- Physical separation of areas;
- Measures/training for staff on how to deal with suspected truant school children on the premises.

Gaming machines – holders of betting premises licences in respect of tracks who also hold a pool betting operating licence may make available up to four gaming machines (categories B2 to D) on the track. The Council will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.

Betting machines at tracks - the Council will apply similar considerations to those set out in paragraph 2.10 (in relation to betting machines made available at off-course betting premises) to betting machines made available at tracks.

Condition on rules being displayed - the Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken

to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

Applications and plans - the Council will require the following information from applicants for premises licences in respect of tracks: -

- detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”);
- in the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.

Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

2.12 Casinos

“No Casinos resolution” - The Council has not passed a “no casino” resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

2.13 Betting Premises

This paragraph deals with off-course betting, that is betting that takes place other than at a track (commonly known as a licensed betting office). Operators of betting premises will require an operating licence from the Gambling Commission and a premises licence from the Council.

The holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. machines at betting premises are restricted to sub-category B2, B3 and B4 machines.

The Council may, in accordance with section 181 of the Act, restrict the number of betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the Council will take into account the following: -

- the size of the premises;
- the number of counter positions available for person-to-person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

Please see paragraph 2.4 for details of conditions that may be attached to betting premises licences.

With respect to the protection of vulnerable persons, the Council will expect applicants to provide information on how to gamble responsibly and access help including leaflets/helpline numbers for organisations such as GamCare.

2.14 Bingo

Operators of premises offering bingo (cash or prize) will require a bingo operating licence from the Gambling Commission, and a premises licence from the Council.

The holder of a bingo premises licence may, in addition to bingo in all its forms, make available a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C and D machines. Premises in existence before 13 July 2011 are entitled to make available eight category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

Bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of eight category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Council will normally require that:-

- all such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder;
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18; and
- provision of information leaflets/helpline numbers for organisations such as GamCare.

Please see paragraph 2.4 for details of conditions that may be attached to bingo premises licences.

2.15 Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operators licence wishes to use the premises temporarily for providing facilities for gambling.

There are a number of statutory limits in regards to temporary use notices.

If objections are received to a temporary use notice (from the Police, Gambling Commission, HM Revenues and Customs or if applicable, any other licensing authority in whose area the premises are situated), the Council must hold a hearing

to consider the representation (unless all the participants agree that a hearing is unnecessary).

If the Council, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it must issue a counter-notice which may:-

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activities to take place subject to a specified condition.

The Council will apply the principles set out in paragraph 2.1 of this statement to any consideration as to whether to issue a counter-notice.

3. Permits

3.1 Unlicensed Family Entertainment Centre gaming machine permits

Unlicensed family entertainment centres will be able to offer category D machines if granted a permit by the Council. If an operator of a family entertainment centre wishes to make category C machines available in addition to category D machines, they will need to apply for an operating licence from the Gambling Commission and a premises licence from the Council.

The Council can grant or refuse an application for a permit, but cannot attach conditions.

The Council will require the applicant to provide appropriate insurance certificates and adequate plans of the premises.

As unlicensed family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues.

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

The Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres; that the applicant has no relevant convictions (those that are set out in Schedule 7 to the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

3.2 (Alcohol) Licensed premises gaming machine permits

Two machines or less

Premises licensed to sell alcohol for consumption on the premises can automatically have two gaming machines, of categories C and/or D. The holder of the premises licence authorising the sale of alcohol will simply need to notify the Council, and pay the prescribed fee.

The Council can remove the automatic authorisation in respect of any particular premises if:-

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act (for example the gaming machines have been made available in a way that does not comply with the requirements on the location/operation of gaming machines);
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

More than two machines

If a premises wishes to have more than two machines, then the holder of the premises licence will need to apply for a permit. The Council shall consider that application having regard to the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.

The Council shall determine what constitutes a relevant consideration on a case-by-case basis, but weight shall be given to the third licensing objective, i.e. protecting children and vulnerable persons from being harmed or being exploited by gambling. To this end, the Council will expect applicants to demonstrate that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Council that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help.

With respect to the protection of vulnerable persons, the Council will expect applicants to provide information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be submitted, and dealt with, as an Adult Gaming Centre premises licence.

The Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3.3 Prize gaming permits

Applicants for prize gaming permits should set out the types of gaming that they are intending to offer. The applicant should be able to demonstrate that:-

- they understand the limits to stakes and prizes that are set out in Regulations; and
- the gaming offered is within the law.

In making its decision on an application for this type of permit the Council does not need to have regard to the licensing objectives but may wish to do so and must have regard to any Gambling Commission guidance. Weight will be given to child protection issues, and relevant considerations are likely to include the suitability of the applicant (i.e. if the applicant has any convictions which would make them unsuitable to operate prize gaming) and the suitability of the premises. Applicants for prize gaming permits must disclose any previous relevant convictions to the Council.

The Council can grant or refuse an application for a permit, but cannot attach any conditions. However, there are four conditions in the Act that permit holders must comply with. These are:-

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

3.4 Club gaming and club machine permits

Members' clubs (but not commercial clubs) may apply for a club gaming permit, unless they already hold a Club Premises Certificate under the Licensing Act 2003. The club gaming permits allow the provision of no more than three gaming machines in total. Each of the three machines must be from categories B3A, B4, C or D but only one B3A machine can be sited, as part of this entitlement. Club gaming permits also allow equal-chance gaming (for example, poker) and games of chance (for example, pontoon, chemin-de-fer) under certain restrictions

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a club machine permit. A club machine permit allows the holder to have no more than three gaming machines in total. Members' clubs and miners' welfare institutes may site up to three machines from categories B3A, B4, C or D but only one B3A machine can be sited, by agreement, as part of this

entitlement. Commercial clubs may site up to three machines from categories B4, C or D (not B3A machines).

Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.

An application may only be refused on one or more of the following grounds:-

- the applicant does not fulfil the requirements for a members’ or commercial club and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant’s premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a condition of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or;
- an objection has been lodged by the Gambling Commission or the Police

The Council shall have regard to the guidance issued by the Gambling Commission and (subject to that guidance), the licensing objectives.

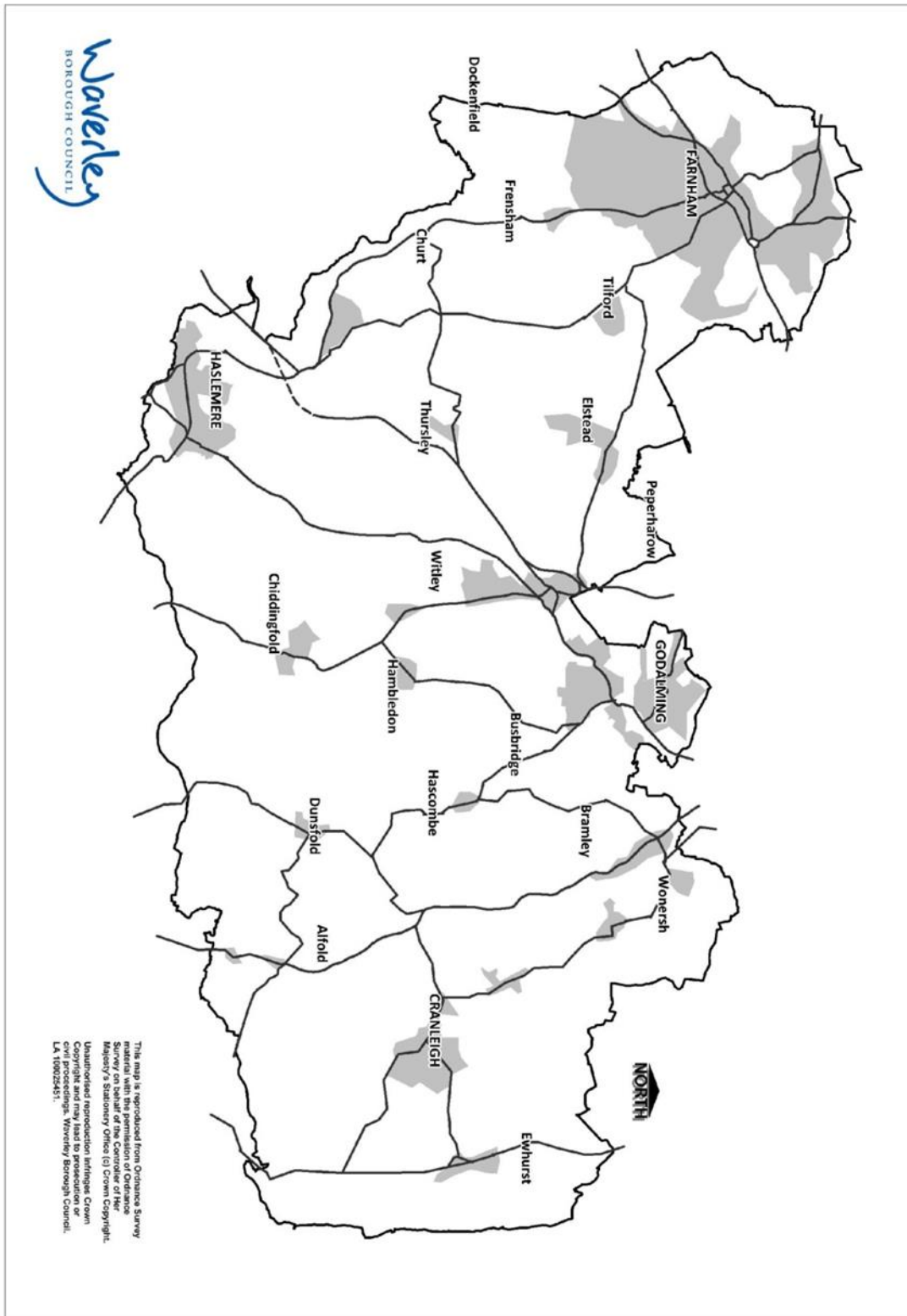
There is a “fast-track” procedure available for clubs or institutes which hold a club premises certificate under section 72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which the Council can refuse a permit are reduced.

The grounds on which an application under the fast track procedure may be refused are:-

- that the club is established primarily for gaming, other than gaming prescribed by regulations under section 266 of the Act;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

The Council can grant or refuse an application for a club gaming or club machine permit, but cannot attach any conditions. However, there are a number of conditions in the Act that the holder must comply with.

ANNEXE 1 – MAP OF WAVERLEY BOROUGH



ANNEXE 2 - LIST OF RESPONSIBLE AUTHORITIES

- (a) **The Licensing Authority**
The Chief Executive, Council Offices, Waverley Borough Council, The Burys,
Godalming, GU7 1HR; Tel: 01483 523333
- (b) **The Gambling Commission**
Victoria Square House, Victoria Square, Birmingham B2 4BP; Tel: 0121 230 6666
info@gamblingcommission.gov.uk
- (c) **The Police Authority**
Chief Officer of Police c/o Police Licensing Officer, Surrey Police, P.O. Box 101, GU1
9PE; Tel: 01483 639512
- (d) **The Fire Authority**
Surrey Fire & Rescue Service,. Headquarters, Croydon Road, Reigate, Surrey, RH2
0EJ
Tel: Tel: 01737 733733
- (e) **The Local Planning Authority**
Head of Planning Services (Chief Planning Officer), Waverley Borough Council, The
Burys, Godalming, Surrey, GU7 1HR.
Tel: 014873 523333
- (f) **Local Authority – functions in relation to the prevention of pollution to
environment or harm to human health**
Head of Environmental Services, Waverley Borough Council, The Burys, Godalming,
Surrey, GU7 1HR.
Tel: 01483 523333
- (g) **Representative body (in relation to protection of children from harm)**
County Child Employment and Strategy Manager, Quadrant Court, 35 Guildford
Road, Woking, Surrey. GU22 7QQ
Tel: 01483 517839
- (h) **Her Majesty’s Commissioners for Customs and Excise (Revenue and Customs)**
HM Revenue and Customs,. Excise Processing Teams, BX9 1GL, United Kingdom
Tel. 0300 322 7072 Option 7

- (i) **Any other person prescribed by regulations** (to be advised)

ANNEXE 3 – LIST OF CONSULTEES

The Gambling Commission
Surrey Police
The Fire Authority
The Planning Service, Waverley Borough Council
The Environmental Health Service Waverley Borough Council
Surrey Children's Service (or others if appropriate)
Her Majesty's Commissioners for Customs and Excise
Citizens' Advice Bureau
Gamble Aware - an independent charity which supports GamCare
Town and Parish Councils
The Security Industry Authority
Waverley Business Forum
The Public via Waverley Website

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