

Sexual Entertainment Venues

STATEMENT OF LICENSING POLICY 2012



City of Westminster

This Statement of Licensing Policy of Westminster City Council, the Licensing Authority for the City of Westminster, was prepared in relation to the licensing of sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982 as amended. Publication of the policy was approved by the council on 02 February 2012.

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Licensing Policy vision statement:

“We want to make sure that Westminster continues to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit.”

OVERVIEW

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Strategy and Policy Objectives

- 1.1 The council has wide experience in regulating entertainment, including sexual entertainment. Licensed entertainment in Westminster contributes to London's appeal to tourists and visitors as a vibrant city. The scale, the diversity and the concentration of entertainment in the West End are unique. The City of Westminster has more licensed premises than any other local authority in Britain; over 3,100. These include nearly 500 pubs, bars and wine bars, over 1,000 restaurants licensed to serve alcohol, 39 theatres and 136 night clubs and dance venues, and 25 premises providing sexual entertainment. There are many other premises which are licensed which include other cultural venues and shops. The entertainment industry brings cultural and financial benefits to the city, the night-time element being estimated as having over 3500 firms with over more than £2.8 Bn of turnover and employing nearly 56,000 people. The council believes that good management of its vibrant entertainment industry and of the street environment within which it operates is essential to the continued success of central London and attracting a wide range of people who want to come here to work, to visit and to live.
- 1.2 The statutory Statement of Licensing Policy published under the Licensing Act 2003 sets out how the council as a Licensing Authority promotes the licensing objectives in the Licensing Act 2003 relating to the retail sale of alcohol, the supply of alcohol by a club, the provision of regulated entertainment, and the provision of late night refreshment.
- 1.3 On 4th April 2011 the council passed a resolution that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 be adopted, with effect from 1st October 2011. The effect of passing this resolution is to require sexual entertainment venues to be licensed under the 1982 Act. A licence issued by the council may last for up to 1 year and, subject to these policies, may be renewed annually.

A sexual entertainment venue is defined as any premises where “relevant entertainment” is provided before a live audience for the financial gain of the organiser or the entertainer.

“Relevant entertainment” in this context is;

(a) any live performance; or

(b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

- 1.4 However, the 1982 Act states that the following are not sexual entertainment venues for the purposes of the Act-
- a. sex cinemas and sex shops
 - b. premises at which the provision of relevant entertainment set out paragraph 1.3 above is such that , at the time in question and including any relevant entertainment which is so provided at that time-
 - i. there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - ii. no such occasions have lasted for more than 24 hours; and
 - iii. no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph i);
 - c. premises specified or described in an order made by the relevant national authority.
- 1.5 This policy sets out the council's approach to the regulation of sexual entertainment premises under the Local Government (Miscellaneous Provisions) Act 1982 as amended, (the 1982 Act). This policy should be read with reference to the statutory Statement of Licensing Policy published under the Licensing Act 2003, (the 2003 Act), and the relevant related strategies and initiatives referred to in it, particularly where premises are regulated under both the 1982 Act and the 2003 Act.
- 1.6 The aim of this policy is to promote the 4 licensing objectives identified in the 2003 Act, and also to promote the improvement in the character and function of the city, or areas of it.
- 1.7 The aims and objectives of this policy are therefore to promote;
- a. prevention of crime and disorder
 - b. public safety
 - c. prevention of public nuisance
 - d. protection of children from harm
 - e. improvement in the character and function of the city, or areas of it
- 1.8 The council will always consider the individual circumstances of each application made under the 1982 Act. It may make exceptions to its own policies where it is appropriate to do so and it will give reasons for doing this.

- 1.9 This Statement of Licensing Policy does not undermine the right of any individual to apply under the terms of the 1982 Act and have any such application considered on its individual merits. The way that the council has delegated authority to determine applications is shown at Appendix 1.

Related strategies and initiatives

- 1.10 The council has adopted a variety of strategies to protect and promote Westminster's status as a world class city. These are outlined in Appendix 5 of the statutory Statement of Licensing Policy published under the 2003 Act. The council has taken initiatives to prevent anti-social behaviour, noise, and degradation of the street environment. These problems are often associated with late night entertainment. A combination of licensing and planning powers, and effective management of the street environment, is required to tackle these problems.

Other relevant legislation

- 1.11 Many other statutory requirements apply to licensed premises including those relating to fire safety, planning, building control, public health, food hygiene, and trading standards, and the council must also have regard to its duties under Section 17 of the Crime and Disorder Act 1998, to prevent crime and disorder. Other examples are outlined in Appendix 6 of the Statutory Statement of Licensing Policy published under the 2003 Act.
- 1.12 The council recognises the role of the planning regime in relation to entertainment premises and has developed policies which relate to development, including the use of buildings and land. Licensing of premises under the 1982 Act involves consideration of a different set of criteria, set out in this policy, including those relating to the management and operation of the premises. The council recognises that different licensing and planning regimes may affect an individual premises and must be determined separately, however, in order to avoid duplication of effort and to ensure transparency of regulation, the council takes the view that applications for licences for premises should normally be for premises which have the relevant planning consent for the proposed licensed activity sought.
- 1.13 In determining licensing applications the council will have regard to related strategies of the council and other relevant legislation.
- 1.14 Following the adoption of the licensing provisions for sexual entertainment venues, the 1982 Act prescribes transitional arrangements for the determination of licence applications. The council approach to transitional applications is set out in Appendix 3.
- 1.15 Useful guidance on Sexual Entertainment Venues, issued by the Home Office, is available at <http://webarchive.nationalarchives.gov.uk/20100413151441/http://www.crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

POLICIES

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2.1. Policy approach

2.1.1 The council has wide discretion on whether to grant applications for licences or variations to licences under the 1982 Act, and which may be subject to standard conditions and other conditions the council considers appropriate. There are five areas of policy included in this statement:

- Policies relating to the suitability of an applicant to hold a licence, or manage or carry on a business at the premises.
- Policies relating to the number of sex entertainment venues that the council considers appropriate in any particular locality within the city.
- Policies relating to the appropriateness of granting or renewing a sex entertainment venue licence, having regard to the character of the relevant locality, the use to which premises in the vicinity are put, and the layout, character or condition of the venue in respect of which the application is made.
- A policy on hours during which licensable activity will be permitted at the premises and the hours that the premises is permitted to be open.
- Policies that relate to the management of sexual entertainment within a premises, including the conduct of performers.

It should be noted that the council has adopted Action Plans for the improvement of particular areas and may adopt other area improvement plans and strategies for local areas in future. The council will take such plans into account where relevant.

2.1.2 The council will continue to monitor the effect of the grant of licences on the licensing objectives set out in this policy.

2.1.3 The council will apply the relevant parts of these policies in relation to applications for new licences, the renewal of licences, variations to licences and transfers of licences.

2.1.4 The council recognises that because of the structure of the 1982 Act there is some overlap between the policies which have been developed, particularly in relation to the appropriateness of granting applications covered by policies NO1, LO1, LO2, and LO3. However, the council considers that these policies supplement one another and that the reasons given in relation to each of these policies support a consistent approach to promote the overall policy aims and objectives.

Premises operating prior to October 2011

- 2.1.5 Premises providing sexual entertainment have been licensed by the council for many years, under previous Public Entertainment legislation, and subsequently, under the Licensing Act 2003.
- 2.1.6 The powers and criteria under which the council regulated premises under previous licensing regimes is not the same as those which are applicable under the current regime. Over a number of years the numbers and location of premises providing sexual entertainment in Westminster has evolved and a pattern has become established, with a number of existing premises having operated for a number of years.
- 2.1.7 The council notes that the government, in formulating the legislation, rejected submissions to grant “grandfather rights” for existing operators, and published Home Office guidance confirms that the Transitional Order allows the council to refuse applications, whether they are from existing operators or new applicants, on grounds set out in the 1982 Act.
- 2.1.8 The location of some of the existing sexual entertainment venues is not necessarily consistent with this policy, particularly in respect of the appropriateness of the location of the sexual entertainment venue having regard to the use to which other premises in its vicinity are put.
- 2.1.9 The council recognises that operating sexual entertainment premises well gives rise to particular challenges. However, the council appreciates that premises providing sexual entertainment have generally been well managed and operated, and that operators have built up valuable knowledge and experience under the licensing regimes which have operated in Westminster. The council’s confidence in the way premises have been run is built on the tight regulation and compliance regimes which have operated previously, and the value attached to licences issued under restrictive council policies.
- 2.1.10 The council is therefore prepared to give weight to an application for a sexual entertainment licence where the applicant can demonstrate, either when making a transitional application or subsequent renewal, that the applicant has successfully operated those premises in Westminster in a manner which has promoted the licensing objectives. These considerations will be balanced against policies relating to the proposed location of the sexual entertainment venue.
- 2.1.11 The council will however apply this policy strictly where applications are made for licences for premises at locations where sexual entertainment has not previously been provided, irrespective of the status of the applicant, and anticipates that over a period of time all sexual entertainment venues will be located in accordance with this policy.

2.2. Policies relating to the suitability of an applicant to hold a licence, or manage or carry on a business at the venue.

Introduction/definitions

- 2.2.1 The council considers that the suitability of the applicant to hold a licence is crucial to promote the objectives of this policy. In determining the suitability of an applicant the council will have regard to the aims and objectives of this policy.

Policy MG1- Mandatory grounds to refuse a SEV licence

- 2.2.2 The 1982 Act prescribes circumstances under which the council shall not grant a sexual entertainment venue licence. A licence shall not be granted:
- a. to a person under the age of 18; or
 - b. to a person who for the time being is disqualified from holding or obtaining a licence by virtue of being the licence holder of a licence which was revoked within the previous 12 month period; or
 - c. to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
 - d. to a body corporate which is not incorporated in an EEA state; or
 - e. to a person who had, 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 in which the application is made, unless the refusal has been reversed on appeal.

Policy MG1- Mandatory grounds for the refusal of a sexual entertainment venue licence

To promote the policy aims and objectives and comply with the 1982 Act, the council will refuse applications in accordance with the provisions of the 1982 Act.

Reasons for Policy MG1

- 2.2.3 The council will refuse applications in accordance with the mandatory grounds set out in the 1982 Act to ensure it acts lawfully in respect of that Act. The council has no discretion in this respect.

Policy SU1- Applicant unsuitable to hold a SEV licence

- 2.2.4 Under the 1982 Act the council has the discretion to refuse applications relating to sexual entertainment venues on the grounds that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason.

Policy SU1 - Suitability of an applicant to hold a sexual entertainment venue licence

To promote the policy aims and objectives, the council will apply the following criteria and take into account the following considerations, where relevant, in determining the suitability of an applicant to hold a sexual entertainment venue licence:

Criteria

Whether the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason.

Considerations

- (i) The nature, number and frequency of any offences committed by the applicant or companies in which they were a Director
- (ii) The background and history of the applicant in the operation or management of entertainment or licensed premises
- (iii) The history of any association, whether formal or informal, with the management of entertainment or licensed premises
- (iv) The nature of any pending action in relation to an alleged criminal offence committed by the applicant

Reasons for Policy SU1

- 2.2.5 The council will expect applicants to demonstrate in their application form their suitability to hold a licence for a sexual entertainment venue. The council will need to be satisfied as to the applicant's suitability to hold a licence in order for it to be satisfied that granting a licence to the applicant would promote the policy aims and objectives.

Policy SU2 – SEV carried on for the benefit of another person

- 2.2.6 Under the 1982 Act the council has the discretion to refuse applications relating to sexual entertainment venues on the grounds 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.

Policy SU2 - Management or carrying on of a business for the benefit of a person to whom an application would be refused

To promote the policy aims and objectives, the council will apply the following criteria and take into account the following considerations, where relevant, in determining applications where 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.

Criteria

Whether 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.

Considerations

(i) Whether the premises would be managed by or carried on for the benefit of a person who would be refused a licence under the criteria relating to Policy SU1.

Reasons for Policy SU2

- 2.2.7 The council considers that the suitability of the person who would benefit from the management of or carrying on of the business to which the licence relates is crucial to promote the objectives of this policy. In determining whether the person who would benefit from the business would be refused a licence had he made the application, the council will have regard to the aims and objectives of this policy.

2.3. Policies relating to the number of sexual entertainment venues that the council considers appropriate in any particular locality within the city

Introduction/definitions

- 2.3.1 The council considers that the number of sexual entertainment venues in different localities in the city should be controlled to promote the licensing aims and objectives of this policy. It has therefore considered what the appropriate maximum number of sexual entertainment venues is for different localities in the city. In these considerations the council has not applied any moral judgement in relation to the provision of sexual entertainment, where it is lawfully proposed or provided.
- 2.3.2 The concentration of sexual entertainment venues can affect the character and function of the street or area in which they are located, and adversely affect the licensing aims and objectives.
- 2.3.3 The effect that sexual entertainment venues may have in relation to the licensing aims and objectives will be dependent on a number of factors including the nature and management of the premises, its operating policies, the type and setting of the premises, and the existing character and function of the locality.

Policy NO1- Appropriate numbers of SEVs in a locality

- 2.3.4 Under the 1982 Act the council has the discretion to refuse applications relating to sexual entertainment venues on the grounds that the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality.
- 2.3.5 For the avoidance of doubt, the 1982 Act specifically states that nil may be an appropriate number for the purposes of the above sub-paragraph.

NO1- Policies relating to the number of sexual entertainment venues that the council considers appropriate in any particular locality within the city

To promote the policy aims and objectives, the council considers that the appropriate maximum number of sexual entertainment venues in relevant localities is as follows:

Westminster core CAZ north - 25

All other localities within the city - 0

See Appendix 2 for a map of the boundary of the core CAZ north area.

Reason for Policy NO1

- 2.3.6 The Westminster core commercial activity zone (CAZ) has evolved over a number of years. The central part of the CAZ is characterised by an intense level and range of activities, designated by the council as the core CAZ. It describes the area of Westminster which has been defined by the council as an appropriate location for a range of commercial activities within the city.
- 2.3.7 There is strong competition for properties within the central CAZ from internationally important activities and functions, but the council considers that it is vital that consideration is also given to the place of residential communities and housing within the CAZ. The council therefore considers that managing Westminster's CAZ is a question of balance. The mixed character of the CAZ is central to its economic vibrancy and crucial to attracting visitors and businesses. It also makes a significant contribution to the unique character of Westminster.
- 2.3.8 Because of the nature of sexual entertainment venues and the impact that they and their customers can have in the locality they are situated, the council considers that there should be a limit to the numbers of sexual entertainment venues in the city and that it is appropriate to only permit licensed premises in the most suitable locality in the city.
- 2.3.9 The council has designated an area in the north of the core CAZ which contains the highest concentration of entertainment premises in the city. This area, known as core CAZ north, contains all of the premises known to be providing sexual entertainment prior to 2011 which will be required to be licensed as sexual entertainment venues.
- 2.3.10 None of the localities outside the core CAZ north have been associated with the provision of sexual entertainment venues and the council considers it inappropriate to allow the introduction of such venues in these locations, because of the nature of sexual entertainment venues and the impact that they and their customers can have in the locality they are situated.
- 2.3.11 Analysis of localities in the city outside the core CAZ north on a Ward by Ward basis highlights significant differences between them and the core CAZ north area. These include differences in their residential make up, concentration of entertainment premises including sexual entertainment premises, provision of community facilities, and perception and expectations relating to the character of the locality by people living, working and visiting those localities.
- 2.3.12 The council has consulted Visit London, the official visitor organisation for London, on their views on expansion in the number of premises offering sex related entertainment. It has advised that if the balance and mix of uses in areas such as Soho, St James, Mayfair, and Covent Garden, were to change and become more

dominated by sex related entertainment this could deter visitors and have a negative impact overall.

- 2.3.13 The council believes that the proliferation of sexual entertainment venue licences would have a detrimental impact on the standards which have been established at existing premises. It is the council's experience that where there is a restriction on the number of licenses issued there is an added incentive to protect and retain a licence by the licence holder and to ensure that licensing objectives are promoted.
- 2.3.14 This policy has therefore been designed to restrict further growth of this form of entertainment, and to ensure that where it is permitted it promotes the policy aims and objectives and has sufficient conditions attached to ensure the premises are managed satisfactorily.
- 2.3.15 Within the confines of policy NO1 and notwithstanding the maximum numbers the council considers appropriate for Westminster core CAZ north, the council will also consider, when determining any individual application for a licence to permit sexual entertainment, whether the number of sexual entertainment venues in the more immediate locality of the proposed venue is equal to or exceeds the number which the council considers appropriate for that more immediate locality.

- 2.4. Policies relating to the appropriateness of granting or renewing a sexual entertainment venue licence, having regard to the character of the relevant locality, the use to which premises in the vicinity are put, and the layout, character or condition of the venue in respect of which the application is made.

Introduction/definitions

- 2.4.1 The council considers that the character of the relevant locality, the use to which premises in the vicinity are put, and the layout, character or condition of the venue in respect of which the application is made are relevant considerations when considering whether the grant of a licence is likely to promote the licensing aims and objectives.

Policy LO1 – Character of the relevant locality

- 2.4.2 Under the 1982 Act the council has the discretion to refuse applications relating to sexual entertainment venues on the grounds that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality.
- 2.4.3 For the purposes of the 1982 Act the relevant locality means, in relation to premises, the locality where they are situated. In the case of mobile premises such as a vehicle, vessel, or stall, relevant locality means any locality where it is desired to use it as a sexual entertainment venue.

Policy LO1- Policy relating to the character of the relevant locality

To promote the policy aims and objectives, the council will consider whether the grant or renewal of a licence would be inappropriate, having regard to the character of the relevant locality.

Reasons for Policy LO1

- 2.4.4 Sexual entertainment venues cater for a particular adult audience and by attracting those customers can affect the character of the locality in which they are situated. The council considers that localities which are characterised by

particular uses, whether by residents, visitors or workers, should not include sexual entertainment venues.

- 2.4.5 The council recognises the diversity and concentration of different premises within the core CAZ north. Policy LO1 does not provide for a presumption to refuse any application based on the character of its relevant locality, but provides for the council to consider whether the grant of an application would be inappropriate having regard to the character of that locality.
- 2.4.6 In considering whether granting a licence would be inappropriate the council will specifically consider whether the character of the locality is predominately residential, high profile retail, of historic importance or iconic in nature, or one of family entertainment or leisure.
- 2.4.7 The look of premises themselves or the nature of the services offered can be, by a majority of people in a locality, associated with characteristics which are inappropriate in a general family setting and use of the locality. This is particularly the case where the character of a locality includes elements which are attractive to, and involve children and families. However well managed a premises may be, the visual impact of sexual entertainment premises, whether in the form of signs, shop front design, promotional material, staff or customer queuing, can give rise to particular concern unless these are satisfactorily mitigated by the operator through the adoption of conditions or operating procedures.
- 2.4.8 The nature of the clientele that sexual entertainment venues may attract, and their behaviour outside the premises, may also be inappropriate in the context of the character of the locality in which the premises are situated.
- 2.4.9 The council is also aware of the potential for crime and anti social behaviour associated with the location of sexual entertainment venues, such as prostitution, touting and “clipping”, which it would be particularly inappropriate to introduce in localities of the character identified in paragraph 2.4.6 above.
- 2.4.10 Whilst many premises offering sexual entertainment are known to be well operated and responsibly managed, with no direct evidence of incidents associated at them, concern exists about the nature and potential of such premises and the customers they attract. Areas with a high proportion of residential use, particularly in family housing units, will inevitably be localities where children are present, and, in the immediate vicinity of their own home, will not always be closely supervised. These areas may not be considered appropriate locations for sexual entertainment venues.
- 2.4.11 Areas predominately characterised by general or family retail use may be inappropriate localities for sexual entertainment because of their use by children, either unsupervised or in a family context, and by adults wishing to avoid the characteristics of, or associated with, sexual entertainment venues.
- 2.4.12 Localities characterised as areas of historic importance, or iconic in nature, will be particularly attractive to, and used by, visitors, both adults and children. The council may consider it inappropriate for these localities, which in many cases will be of national and international significance, to be associated with sexual

entertainment venues and their associated character, because of the effect that such an association would have on visitors and on the image of London and Westminster in particular.

- 2.4.13 Localities characterised as areas of family entertainment or leisure, for instance areas with a concentration of theatres, cinemas, sports centres, street theatre, or open spaces, are likely to attract children and families who may be negatively impacted by sexual entertainment venues in these areas.
- 2.4.14 The relevant locality in respect of a sexual entertainment venue can include an area outside of the Westminster City Council boundary.
- 2.4.15 The previous existence of a licence permitting sexual entertainment at a premises should not of itself give rise to any expectation that a sexual entertainment venue licence will be granted or renewed. In considering the appropriateness of a sexual entertainment venue the council is entitled to change its view about the character of the locality in which the sexual entertainment venue is situated, whether or not there has been a change in the character of the locality. Equally, the character of the locality in which the sexual entertainment venue is situated, or proposed to be situated, may have changed since the grant of previous sexual entertainment venue licences for premises in that locality, which would now make a grant or renewal of a licence inappropriate.

Policy LO2 – Use of premises in the vicinity

- 2.4.16 Under the 1982 Act the council has the discretion to refuse applications relating to sexual entertainment venues on the grounds that the grant or renewal of the licence would be inappropriate, having regard to the use to which any premises in the vicinity are put.

Policy LO2 - Policies relating to the use to which any premises in the vicinity are put

To promote the policy aims and objectives, the council will consider whether the grant or renewal of a licence would be inappropriate, having regard to the use to which premises in the vicinity of the proposed sexual entertainment venue are put.

Reasons for Policy LO2

- 2.4.17 The council considers that sexual entertainment venues, providing a particular type of entertainment for a particular adult clientele, may be inappropriate in the vicinity of other premises depending on their use. This may include premises in the vicinity used for religious worship, by children and families, or vulnerable adults. It may also include sex establishments and other premises providing sexual

entertainment where the council considers it inappropriate to create a cluster of such premises.

- 2.4.18 Premises where children under the age of 18 in particular may reasonably be expected to attend will include schools and youth clubs and family community facilities including swimming pools, libraries, and open spaces. Premises providing services for vulnerable adults include sheltered housing and hostels.
- 2.4.19 The look of sexual entertainment venues themselves or the nature of the services offered may be associated with characteristics which are inappropriate in the vicinity of premises used for religious worship, by children and families, or vulnerable adults.
- 2.4.20 The nature of the clientele that sexual entertainment venues may attract, and their behaviour outside the premises, may also be inappropriate in the context of the use to which premises are put in the locality in which the sexual entertainment venues are situated.
- 2.4.21 The council is also aware of crime and anti social behaviour associated with the location of sexual entertainment venues, such as prostitution, touting and “clipping”, which it would be particularly inappropriate to introduce in localities where premises are used for religious worship, by children and families, or vulnerable adults.
- 2.4.22 The council does not wish to create a locality with the character of a red light district and will therefore take into account the use of premises licensed as sex establishments and other premises providing sexual entertainment, whether or not they are required to be licensed. A concentration of sex establishment premises can have a cumulative impact on the locality in which they are situated which is greater than the sum of the impact of the individual premises, and where impacts are not directly attributable to any one particular premises. Notwithstanding considerations given to existing operators during the transitional introduction of the SEV licensing regime, the council will take opportunities which may arise to reduce existing concentrations of licensed premises, particularly in Soho.
- 2.4.23 Premises in the vicinity of a sexual entertainment venue can include premises outside of the Westminster City boundary.

Policy LO3 – Layout, character or condition of the venue

- 2.4.24 Under the 1982 Act the council has the discretion to refuse applications relating to sexual entertainment venues on the grounds that the grant or renewal of the licence would be inappropriate, having regard to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Policy LO3 - Policies relating to the layout, character or condition of the venue

To promote the policy aims and objectives, the council will apply the following criteria and take into account the following considerations, in determining whether the grant or renewal of a licence is appropriate with regard to the layout, character or condition of the premises in respect of which the application is made.

Criteria

Whether, if the licence were to be granted or renewed, the policy aims and objectives would be promoted.

Considerations

Layout

- (i) Whether the layout of the premises promotes good management and appropriate supervision within the premises.
- (ii) Whether the layout of the premises promotes public safety in respect of means of escape, fixtures and fittings, overcrowding, facilities for performers, stairways or other design features.
- (iii) Whether the layout of the premises promotes a reduction in crime and disorder in respect of opportunity for theft, sexual offences, violence, or other crime.
- (iv) Whether the layout of the premises promotes the prevention of public nuisance in respect of the proximity of noise sensitive premises in the vicinity, provision for access and egress, or behaviour of customers outside the premises.

Character

- (i) Whether the character of the premises makes reference to places of religious worship
- (ii) Whether the character of the premises is such that children or vulnerable adults may be attracted to the premises.
- (iii) The extent and manner in which sexual entertainment is advertised at the premises.

Condition

(i) Whether the condition of the premises promotes public safety in respect of means of escape, fixtures and fittings, facilities for performers, stairways or other design features.

(ii) Whether arrangements are in place to adequately maintain the condition of the premises.

(iii) Whether the condition of the premises meets legal or recognised technical standards for its use.

Reasons for Policy LO3

- 2.4.25 The council considers that the layout, character and condition of premises are relevant considerations in determining whether the grant or renewal of a sexual entertainment venue licence is appropriate.
- 2.4.26 The layout, character and condition of premises can significantly impinge on all the policy aims and objectives which the council seeks to promote. It is therefore essential that the council has regard to all relevant aspects of the layout, character and condition of premises and refuses applications where granting the licence would be inappropriate having regard to these factors.
- 2.4.27 Good management of the premises requires adequate supervision of customers and performers at all times within and immediately outside the premises. Broken sight lines, small alcoves, rooms with poor access and lighting or premises over several floors may be considered unsuitable because of their intrinsic layout difficulties, notwithstanding any CCTV or management operating procedures which may be proposed to alleviate these risks.

2.5. Hours

Introduction/definitions

- 2.5.1 The council is not proposing to set fixed closing times for particular areas. It is the intention to generally grant licences or variations to licences where the hours when customers are permitted to be on the premises are within the ‘core hours’ as set out in Policy HR1. This is not a policy to refuse applications for hours longer than the core hours. Where a premises is licensed under the 2003 Act for hours beyond the ‘core hours’ the council will have regard to those hours and generally grant a SEV licence to the hours authorised for other licensable activities, subject to the provision of a winding down period if appropriate. Where a proposal is made to operate outside these ‘core hours’ each application will be considered on its merits and with reference to the policy aims and objectives. The council expects applicants to consider how people using the premises are to depart from the premises and from the area and make reference to it in their application. As part of applications for premises that intend to operate after midnight, applicants should give particular consideration to the limited availability of transport after London Underground services cease.

Policy HR1- Hours

Applications for hours within the core hours set out below will generally be granted, subject to other policies in this statement.

Applications for hours outside the core hours will be considered on their merits, subject to other relevant policies.

Core hours when customers are permitted to be on the premises:

Friday and Saturday:	09:00 to midnight
Sundays immediately prior to Bank Holidays:	09:00 to midnight
Other Sundays:	09:00 to 22:30
Monday to Thursday:	09:00 to 23.30

Reasons for Policy HR1

- 2.5.2 Westminster has the greatest concentration of licensed premises in the United Kingdom, and many currently operate late into the night. There is extensive late night opening and a range of closing hours throughout the night. The statutory Statement of Licensing Policy under the 2003 Act, highlights the pressures late at night, including the limited capacity of the transport system to serve the extent of

late night activity, the extent of crime and disorder and the opportunities for crime, issues of public nuisance, and the need for a “window of opportunity” for the city to be cleaned.

- 2.5.3 The council does not accept that in the circumstances of Westminster the granting of generally longer hours would result in a reduction in crime and disorder and public nuisance. It is prepared generally to grant premises licences for hours that will provide for longer hours at the end of the week but that still enable people to travel home relatively easily by tube, train, bus, and taxi, while retaining opportunities for residents to have an additional respite on Sunday.
- 2.5.4 It expects applicants to consider how people using the premises are to depart from the premises and from the area and make reference to it in their application. The council wishes to see a more diverse range and variety of entertainment available later at night, and will allow for greater flexibility to those premises that add to a more varied offer of entertainment and cultural activity. The council wishes to encourage a wider range of people to frequent the West End, both so that they can enjoy what it has to offer and because a wider range of age groups can act to curb anti-social behaviour. Doing this will promote the policy aims and objectives of prevention of crime and disorder and public nuisance.
- 2.5.5 The consideration of hours of operation will be in the context of the particular circumstances of each application and the policy aims and objectives. The hours at which noise may occur and disturbance of residents’ rest, relaxation and sleep will be of particular concern. In general, the conditions will be framed to ensure that closing hours on nights when residents have to get up for work the next morning are earlier than when it is less likely that they will have to do so.
- 2.5.6 Activity associated with late night licensed premises may have an impact on the local environment and may cause public nuisance. The effect of noise is greater later at night when ambient noise levels are lower and residents are at home relaxing or wishing to sleep. The council, in considering the imposition of conditions, will focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning, when residents in adjacent properties will want to relax, or sleep. Conditions relating to noise may also prove necessary to address any disturbance anticipated from the activities of customers in the vicinity of the premises.
- 2.5.7 Applicants should carefully consider the hours that they will wish to operate and when to close their premises for the entry of customers and when to require them to leave. The effective dispersal of customers both from premises and their locality is regarded by the council as a key principle of its policy to promote the policy aims and objectives.

CONDITIONS, MANAGEMENT AND COMPLIANCE, INCLUDING THE CONDUCT AND WELFARE OF PERFORMERS.

3

Introduction/definitions

- 3.1.1 The council considers that responsible management and the implementation of appropriate operating policies at sexual entertainment venues are essential to ensure the promotion of the licensing aims and objectives.
- 3.1.2 Under the 1982 Act, the council may grant or renew a sexual entertainment venue licence on such terms and conditions and subject to such restrictions as it may specify.
- 3.1.3 Additionally, and notwithstanding its power to condition licences when determining their grant or renewal, the council may make regulations prescribing standard conditions applicable to licences for sexual entertainment venues, that is to say, terms, conditions and restrictions on or subject to which licences are in general to be granted, renewed or transferred by the council.
- 3.1.4 It will only impose such conditions as are appropriate to promote the policy aims and objectives.
- 3.1.5 In ensuring compliance with the sexual entertainment licence regime the council will aim to promote the policy aims and objectives.

Conditions

- 3.1.6 The council will prescribe, and from time to time revise, standard conditions which will apply generally to licences that the council will grant or renew.
- 3.1.7 Through standard conditions the council seeks to ensure that sexual entertainment venues are well managed and supervised, restrict the sexual entertainment activities and the manner in which they are permitted to be provided, protect performers, and control the impact of the venue and its customers in relation to its locality.
- 3.1.8 Specifically, standard conditions could include measures which would:
 - (a) require all parts of the premises to be covered by CCTV
 - (b) restrict access on the premises to over 18s
 - (c) control advertising and touting of the venue at the premises and in the locality
 - (d) require facilities to be provided for performers for changing

(e) designate the areas of the venue where sexual entertainment is permitted to be provided, and ban the use of private booths where there is inadequate provision for the appropriate supervision of the entertainment

(f) prevent contact between performers and customers, and between performers, and ensuring no customer involvement with the entertainment

(g) require performers to adhere to a code of conduct with details of performers retained at the venue

(h) control the visual and physical impact of the venue and its customers in the vicinity of the premises

- 3.1.9 Where it considers it appropriate to promote the policy aims and objectives the council may attach conditions, in addition to the standard conditions, to a sexual entertainment venue licence in the individual circumstances of an application.
- 3.1.10 When it is considered that the promotion of the policy aims and objectives will be dependent on the licensable activities not being available to the general public at a premises, then conditions should ensure either that events are genuinely private, that corporate events are genuinely for members of bona fide organisations, or that appropriate membership requirements are in place and applied. It is recognised that different corporate, private or membership only events can have a range of different impacts on the policy aims and objectives. The policy also recognises that the impact that promoter led events can have may vary considerably dependent on the promoter and nature of events, and conditions may be applied as appropriate to promote the policy aims and objectives.
- 3.1.11 Where proposals are made which include operating the premises as a private members club conditions will be imposed which restrict the operation of the premises in accordance with that proposal. The council recognises that the operation of genuine private members clubs may have less impact than premises advertised and open to the general public. This may be reflected in less visual impact of the premises where the entrance is discrete and does not include any form of promotional material, the absence of customers queuing outside the premises, and the additional information and powers of exclusion of members attending the premises.
- 3.1.12 Where existing legislation already places certain statutory responsibilities on an employer or operator of premises these will not be duplicated as conditions. However, these general duties will not always adequately cover specific issues that arise on the premises in connection with sexual entertainment, and in these cases additional measures in the form of conditions may be appropriate.
- 3.1.13 The council as the Licensing Authority, and the police, are concerned that nudity or partial nudity does not become incidental to the operation of licensed premises under the 2003 Act, such as pubs and bars, on either a permanent or occasional basis. The proper regulation of sex related entertainment requires a range of conditions to be imposed and supervised by the Licensing Authority and the specialist units of the police. The specialist resources to do this are limited and

such necessary regulation cannot be operated if sex related entertainment is provided on an incidental or casual basis or in a great number of premises.

- 3.1.14 Where appropriate the council will utilise “works conditions” to the effect that the premises will not be operated until specified works are completed or measures put in place to the satisfaction of the relevant responsible authorities. This is an expedient way of resolving technical matters which cannot be readily determined at hearings.
- 3.1.15 The council may publish and from time to time review a set of “model conditions” which may be used either by the applicant when completing an application form or by the council when considering granting an application, to identify conditions which may be appropriate in the individual circumstances of an application.
- 3.1.16 Where a SEV licence is granted to an existing operator, conditions on the existing 2003 Act licence that relate expressly and exclusively to the regulation of relevant entertainment at the premises, or are inconsistent with, and less onerous than, the conditions in the SEV licence, are to be treated as if deleted from the 2003 Act licence.

Management and enforcement approach

- 3.2.1. It is essential that licensed premises operate in compliance with the 1982 Act and to ensure the promotion of the policy aims and objectives. Part of the council’s role is to monitor premises and take appropriate action to ensure that the licensing objectives are promoted.
- 3.2.2. The Licensing Authority will work alongside the Metropolitan Police in promoting the licensing objectives. Protocols will be agreed as appropriate between the police and the council on the responsibilities and procedures for joint working and enforcement.
- 3.2.3. The council in its role as the Licensing Authority will also work in partnership with the Fire Authority to promote the licensing objectives. Protocols as appropriate will be agreed between the London Fire & Emergency Planning Authority (LFEPA) and the council on responsibilities and procedures for joint working and enforcement.
- 3.2.4. The council has an established Corporate Enforcement Policy agreed on 17 March 2008 based around consistency, transparency and proportionality which can be viewed on the council’s website at

<http://www.westminster.gov.uk/services/councilgovernmentanddemocracy/councils/decisionmaking/enforcement/>

The council has also adopted the Enforcement Concordat that can also be viewed on the website.

- 3.2.5. Inspection and enforcement will be based on the principles of risk assessment, having a graduated response and targeting problem premises. Inspections will not

be undertaken routinely. Enforcement of the legislation will be objective and transparent.

- 3.2.6. An intelligence led approach will be adopted and information regarding incidents of violent crime, disorder and nuisance in and around licensed premises will be collated to provide a risk assessment basis for inspection and, where appropriate, surveillance, with high-risk operations receiving more attention than premises carrying low public safety/nuisance risks.
- 3.2.7. The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with the council's Corporate Enforcement Policy.
- 3.2.8. Any complaints received by the council about unlicensed activity or the way licensed premises may be operating will be dealt with in accordance with the council's Corporate Enforcement Policy and may result in an adjustment to the risk rating, prompting more frequent visits. We will work with businesses in an attempt to resolve issues that are of concern.

GLOSSARY

4

Audience

An audience includes an audience of one.

Clipping

Obtaining money through deception by the apparent offer of sexual services or entertainment. This may involve the simple deception of receiving money and sending victims to addresses where no such offer is available, the supply of non-alcoholic drinks at inflated prices and the charging of fees for hostess services when not requested. In some instances, it is associated with luring victims to places where they are robbed.

Local authority

Under section 2 of the Local Government (Miscellaneous Provisions) Act 1982, local authorities in London are defined as the councils of London Boroughs. For the purposes of this statement this is the City of Westminster Council (the council).

Nudity

The display of nudity is defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended as meaning

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus;
- (b) in the case of a man, exposure of his pubic area, genitals or anus.

Organiser

‘The organiser’ in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of (a) the relevant entertainment; or (b) the premises.

Performer

For the purpose of this policy, performer is defined as a person or persons actual providing relevant entertainment at a premises, whether or not the premises are licensed as a sexual entertainment venue. Often, lap dancing performers are self employed.

Premises

Premises are defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended to include any vessel, vehicle, or stall but does not include any private dwelling to which the public is not admitted.

Qualifying club

These clubs are organisations where members have joined together for particular social, sporting or political purposes and have then combined to buy alcohol in bulk as members of the organisation for supply to the club. There are technically no sales of alcohol by retail at such premises except to guests when guests make a purchase. Such clubs have traditionally not been “licensed”; they have registered with the magistrates’ courts having established that they qualify to be treated exceptionally. The 2003 Act preserves this special treatment and requires the club to “qualify” to be outside the normal premises licence arrangements. The new authority for the supply of alcohol and provision of other licensable activities on qualifying club premises is a club premises certificate and this is issued by the Licensing Authority. A qualifying club will normally be permitted under the terms of a club premises certificate to sell and supply alcohol to its members and their guests only. In order to be a qualifying club, instant membership is not permitted and members must normally wait at least two days between their application and their admission to the club. Any qualifying club may choose to obtain a premises licence if it decides that it wishes to offer its facilities commercially for use by the general public, including the sale of alcohol to them. Such qualifying clubs should not be confused with proprietary clubs, which are clubs run commercially by individuals, partnerships or businesses for the purposes of profit and which require a premises licence and are not eligible to be qualifying clubs.

Qualifying clubs, when operating as sexual entertainment venues, are subject to the relevant licensing provisions under the Local Government (Miscellaneous Provisions) Act 1982 as amended.

Security Industry Authority (SIA)

The Security Industry Authority was set up by the Private Security Industry Act 2001. The key role for the SIA involves the managing and issuing of licences for people working in particular areas of the private security business, and the management of the voluntary approved contractor scheme. More details are available at

<http://www.sia.homeoffice.gov.uk/Pages/home.aspx>

Sexual entertainment venue and relevant entertainment

A sexual entertainment venue is defined as any premises where “relevant entertainment” is provided before a live audience for the financial gain of the organiser or the entertainer.

“Relevant entertainment” in this context is;

- (a) any live performance; or
- (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

However, the 1982 Act states that the following are not sexual entertainment venues for the purposes of the Act-

- a. sex cinemas and sex shops
- b. premises at which the provision of relevant entertainment is such that , at the time in question and including any relevant entertainment which is so provided at that time-
 - i. there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - ii. no such occasions have lasted for more than 24 hours; and
 - iii. no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph i);
- c. premises specified or described in an order made by the relevant national authority.

Sex establishments

These are defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended. They are sex shops, sex cinemas, hostess bars, and sexual entertainment venues.

Vessels

Vessels are defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended to include any ship, boat, raft, or other apparatus constructed or adapted for floating on water.

APPENDICES

5

APPENDIX 1 DELEGATION

APPENDIX 2 CORE CAZ NORTH BOUNDARY MAP

APPENDIX 3 TRANSITION PROCEDURES

USEFUL CONTACTS

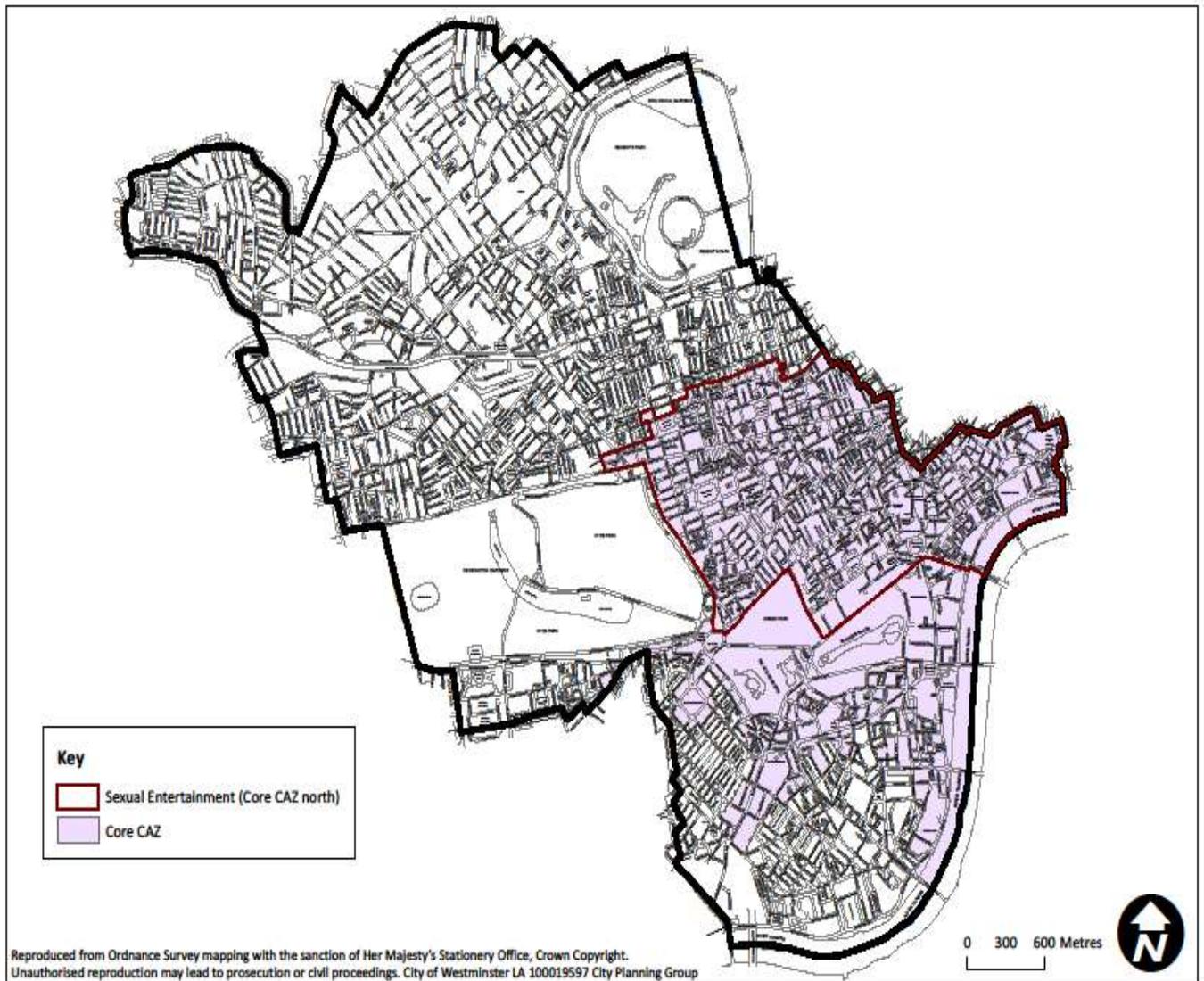
APPENDIX 1 - DELEGATION

Sexual Entertainment Venues - Schedule of Delegation

Decision	Cabinet member in consultation with Chairman of Licensing Committee	Licensing committee or sub-committee	Council Officer
Approval of policy relating to SEV licensing	X		
Pass resolution relating to standard conditions		X	
Set or vary fees and charges		X	
Determination of an opposed new application		X	
Determination of an unopposed new application		X	
Determination of an opposed renewal, variation or transfer application		X	
Determination of an unopposed renewal, variation or transfer application			X

APPENDIX 2. - CORE CAZ NORTH

BOUNDARY MAP



APPENDIX 3. - TRANSITION PROCEDURES

Introduction

On the 1st October 2011 the Sexual Entertainment Venue (SEV) licensing arrangements came into effect within Westminster. From this date there is a 12 month transitional provisions period during which existing and new operators can apply to the council for a SEV licence. During this 12 month period there are three key dates. These are;

- 1st appointed day - 1st October 2011
- 2nd appointed day - 1st April 2012
- 3rd appointed day - 1st October 2012

These appointed days represent key points within the transitional provisions. The key points of the appointed days are detailed below.

1st October 2011 - 1st appointed day

This is the date that the council has resolved that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (1982 Act) as amended by the Policing and Crime Act 2009 (2009 Act) come into force. This amended schedule of the 1982 Act regulates the licensing of venues that offer relevant entertainment.

If an operator does not hold a Licensing Act 2003 (2003 Act) premises licence or club premises certificate that permits relevant entertainment before the 1st appointed day, they cannot provide relevant entertainment within Westminster after this date. However, a new SEV licence application can be made at any point during the 12 month transitional period.

Existing operators that do hold a 2003 Act licence¹ to allow relevant entertainment can continue to provide relevant entertainment until the 3rd appointed day or until their application for a SEV licence, and any appeal, has been determined.

Any existing or new operator can apply for a new SEV licence from the 1st appointed day.

1st April 2012 - 2nd appointed day

The 2nd appointed day is the cut off day for applicants that want their application to be considered with all other applications that have been made since the first

¹ 2003 Act Licence means a premises licence or club premises certificate.

appointed day. All of the applications made during this period will be considered by the council before any decision to grant a SEV licence is made. The council cannot determine any applications prior to the 2nd appointed day.

After the 2nd appointed day the applications will be put before the council Licensing Sub-Committee, who will consider all applications made during this period before determining each application. The Sub-Committee will consider all applications, having regard to the council policy relating to SEVs, the 1982 Act, any Article 1 and/or 10 rights under the European Convention on Human Rights (ECHR) and any oral or written evidence provided to them. The Council will issue its formal decision relating to each application within 14 days from the date that all applications have been heard.

If a SEV licence is granted to a new operator it will take effect from the date of notification of the decision and will be granted for one year. Licenses granted to existing operators will take effect from the 3rd appointed day. The reason for this is that existing operators can already provide relevant entertainment until the 3rd appointed day under their existing 2003 Act licence.

Any applications that are received after the 2nd appointed day will not be considered by the council until it has determined all applications that were received between the 1st and 2nd appointed days. Once those applications have been determined the council will then consider those applications received after the 2nd appointed day. These applications will be considered as soon as practicable by the council Licensing Sub-Committee. The decision relating to the applications made after the 2nd appointed day will be given at the hearing after the Sub-Committee has considered the application against the council SEV policy, 1982 Act, any Article 1 and/or 10 rights under the ECHR and any oral or written evidence given to it.

The council cannot guarantee that any applications received after the 2nd appointed day will be determined by the 3rd appointed day. It is recommended that operators who intend to apply for a SEV licence make their application to the Council as soon as possible during the transitional period.

1st October 2012 - 3rd appointed day

On the 3rd appointed day any operator who does not hold a SEV licence cannot provide relevant entertainment.

All SEV licenses that were granted to existing operators will come into effect and their licence will last for one year from this date.

Useful contacts

Information on the various aspects of the licensing process and policy can be obtained from the following bodies:

Information on licensing:

Licensing Process Team
Westminster City Council
Address: 64 Victoria Street,
London, SW1E 6QP
Licensing Helpline:
Telephone: 020 7641 8549

Information on environmental health, safety and noise:

Premises Management
Westminster City Council
Environmental Health
Consultation Team
Address: 64 Victoria Street,
London, SW1E 6QP
Telephone: 020 7641 3161
Fax: 020 7641 3436

Information on licensing enforcement and crime prevention:

Westminster Police
Westminster Police Licensing
Team
Address: 64 Victoria Street,
London, SW1E 6QP
Telephone: 020 7641 1721/3179
Fax: 020 7641 2436

Information on crime and disorder reduction:

Crime and Disorder Reduction Partnership
Westminster City Council
Crime & Disorder Reduction Team Address:
64 Victoria Street, London, SW1E 6QP
Telephone: 020 7641 1038/2103
Fax: 020 7641 1221

Email: communitysafety@westminster.gov.uk

Information on licensing regarding children and families:

Social and Community Services- Children
and Families
Westminster City Council
Head of Commissioning - Child Protection
& Quality
Address: 4 Frampton Street,
London NW8 8LF
Telephone: 020 7641 7668
Fax: 020 7641 7672

Information on planning applications:

Development Planning Services
Westminster City Council
Address: 64 Victoria Street, London, SW1E
6QP

Central Area Team (W1 addresses):

Telephone: 0207 641 2514/2927
Fax: 0207 641 3158

South Area Team (SW1, SW7, WC2, EC4 addresses):

Telephone: 020 7641
2977/2681
Fax: 020 7641 2339

North Area Team (W2, W9, W10, W11, NW1, NW8 addresses):

Telephone: 020
7641 2924/2017
Fax: 020 7641 2338

Planning Enforcement Team (all post-codes):

Telephone: 020 7641 8956

Information on Special Events:

Special Events Team
Westminster City Council
64 Victoria Street, London SW1E 6QP
Telephone: 020 7641 2390
Fax: 020 7641 2640

Email: speciale@westminster.gov.uk

Information on fire safety and licensing requirements:

London Fire & Emergency
Planning Authority
Address: 156 Harrow Road,
London, W2 6NL
Telephone: 020 7587 2300
Email: info@london-fire.gov.uk

Further information about the Licensing Act 2003 and Guidance issued under section 182 of the Act can be obtained from the Home Office at:

Home Office
Direct Communications Unit
2 Marsham Street
London SW1P 4DF

General Enquiries:

Telephone 020 7035 4848

Email: public.enquiries@homeoffice.gsi.gov.uk

Note: This contacts list was correct at the time of printing and may change over a period of time.

www.westminster.gov.uk/licensing

Notes:



City of Westminster

Westminster City Hall, 64 Victoria Street, London SW1E 6QP
Planning helpline: 020 7641 2513 www.westminster.gov.uk