



Licensing Committee

Date: Thursday, 27 January 2022
Time: 10.00 am
Venue: A link to the meeting can be found on the front page of the agenda.

Members (Quorum)

Jon Andrews (Vice-Chairman), Mike Barron, Derek Beer, Susan Cocking, Mike Dyer, Les Fry, Paul Harrison, Brian Heatley, Carole Jones, Cathy Lugg, David Morgan, Emma Parker (Chairman), Julie Robinson, David Taylor and Kate Wheller

Chief Executive: Matt Prosser, County Hall, Dorchester, Dorset DT1 1XJ

For more information about this agenda please contact Democratic Services Meeting Contact 01305 224202 elaine.tibble@dorsetcouncil.gov.uk

Due to the current coronavirus pandemic the Council has reviewed its approach to holding committee meetings. Members of the public are welcome to attend this meeting and listen to the debate online by using the following link:

[Link to live meeting](#)

Members of the public wishing to view the meeting from an iphone, ipad or android phone will need to download the free Microsoft Team App to sign in as a Guest, it is advised to do this at least 30 minutes prior to the start of the meeting.

Please note that public speaking has been suspended. However Public Participation will continue by written submission only. Please see detail set out below.

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Agenda

Item

Pages

1. **APOLOGIES**

To receive any apologies for absence.

2. **DECLARATIONS OF INTEREST**

To disclose any pecuniary, other registerable or personal interest as set out in the adopted Code of Conduct. In making their disclosure councillors are asked to state the agenda item, the nature of the interest and any action they propose to take as part of their declaration.

If required, further advice should be sought from the Monitoring Officer in advance of the meeting.

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3. **PUBLIC PARTICIPATION**

To receive questions or statements on the business of the committee from town and parish councils and members of the public.

Public speaking has been suspended for virtual committee meetings during the Covid-19 crisis and public participation will be dealt with through written submissions only.

Members of the public who live, work or represent an organisation within the Dorset Council area, may submit up to two questions or a statement of up to a maximum of 450 words. All submissions must be sent electronically to elaine.tibble@dorsetcouncil.gov.uk by the deadline set out below.

When submitting a question please indicate who the question is for and include your name, address and contact details. Questions and statements received in line with the council's rules for public participation will be published as a supplement to the agenda.

Questions will be read out by an officer of the council and a response given by the appropriate officer at the meeting. All questions, statements and responses will be published in full within the minutes of the meeting. The deadline for submission of the full text of a question or statement is **8.30am on Monday 24 January 2022**.

4. **RENEWAL OF SEXUAL ENTERTAINMENT VENUE LICENCE FOR WIGGLE** 5 - 40

An application has been made to renew a sexual entertainment venue for Wiggle, 33 New Street, Weymouth. The application has been out to public consultation and has attracted relevant representations. A Licensing Committee must consider the application and representations at a public hearing.

5. **DELEGATED POWERS FOR URGENT REVOCATIONS OR SUSPENSIONS TO TAXI LICENCES** 41 - 66

- 1.1 Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 the Council, as Licensing Authority has the power to suspend, revoke or refuse to renew a hackney carriage / private hire driver's licence.
- 1.2 Dorset Council's Constitution delegates all powers relating to taxi licensing to the Licensing Committee (and/or Sub-Committee) and the majority of decisions that relate to whether a taxi driver should keep their licence will be referred to a Sub-Committee for a decision.
- 1.3 Occasionally however, there are situations when it is necessary for immediate action to be taken, when even delaying a decision for the time it takes to prepare a report and organise a committee meeting would potentially give rise to an unacceptable risk to the public.
- 1.4 The recommendation is that where officers are of the view that an incident or allegation is so serious that any delay in the decision making process presents an unacceptable risk to passengers, the Executive Director of Place be given delegated authority to suspend or revoke licences with immediate effect, in consultation with the Chair (or vice chair) of the Licensing Committee.

6. URGENT ITEMS

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

7. EXEMPT BUSINESS

To move the exclusion of the press and the public for the following item in view of the likely disclosure of exempt information within the meaning of paragraph 3 of schedule 12 A to the Local Government Act 1972 (as amended).

The public and the press will be asked to leave the meeting whilst the item of business is considered.

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Licensing Committee

27 January 2022

Renewal of sexual entertainment venue licence for Wiggle

For Decision

Portfolio Holder: Cllr L Miller, Customer and Community Services

Local Councillor(s): Cllr J Orrell

Executive Director: J Sellgren, Executive Director of Place

Report Author: Kathryn Miller

Title: Licensing Officer

Tel: 01305 252214

Email: kathryn.miller@dorsetcouncil.gov.uk

Report Status: Public

Recommendation: The Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers applicable to sex establishments.

Reason for Recommendation: The Committee must consider the oral representations and information given at the hearing before reaching a decision.

1. Executive Summary

An application has been made to renew a sexual entertainment venue for Wiggle, 33 New Street, Weymouth. The application has been out to public consultation and has attracted relevant representations. A Licensing Committee must consider the application and representations at a public hearing.

2. Financial Implications

Any decision of the Committee could lead to an appeal by the applicant which could incur costs.

3. **Well-being and Health Implications**

None

4. **Climate implications**

None

5. **Other Implications**

Public Health and Community Safety.

6. **Risk Assessment**

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Medium

Residual Risk: Medium

7. **Equalities Impact Assessment**

Not applicable

8. **Appendices**

Appendix 1 – Application and current conditions

Appendix 2 – Representation from an interested party

Appendix 3 - Weymouth & Portland Sex Establishment Policy 2016

9. **Background Papers**

Local Government (Miscellaneous Provisions) Act 1983 Schedule 3

10. **Details**

- 10.1 An application has been received from Wellhot Ltd to renew the sexual entertainment licence for Wiggle, 33 New Street, Weymouth, DT4 8DB. The full application and current conditions are attached at Appendix 1.
- 10.2 There is no change to the hours, operation, or conditions.
- 10.2 The premises have held a sexual entertainment licence at 33 New Street, Weymouth since 2011 and have operated in a responsible manner.
- 10.3 The application has been advertised at the premises and in a local newspaper.
- 10.4 One representation was received from an interested party. Their response is attached at Appendix 2.
- 10.5 There were no representations received from responsible authorities.

11 **Considerations**

- 11.1 The part of the Weymouth and Portland Sexual Entertainment Policy relating to renewal of licences states at paragraph 12:

“On application to renew a licence for the same proposed house and licensing activities and conditions as previously granted, the Council shall give due weight to the fact the licence was granted in the previous year and any years before that.”

- 11.2 The full Weymouth and Portland Sexual Entertainment Policy 2016 is attached at Appendix 3.

12. **Recommendation**

- 12.1. Having considered the representations and the evidence presented at the hearing the Committee may:
 - a) Grant the licence as applied for
 - b) Attach individual conditions
 - c) Refuse the licence
- 12.2 The Committee could impose terms, considerations, or restrictions other than those specified in the application if it is deemed appropriate and the applicant is given the reasons for this.
- 12.2 The Local Government (Miscellaneous Provisions) Act 1982 states that the layout, character, or condition of the premises are material considerations when deciding to grant the application.

Footnote:

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

DORSET COUNCIL

South Walks House, South Walks Road, Dorchester, Dorset, DT1 1UZ



SEX ESTABLISHMENT RENEWAL APPLICATION FORM

This application is made under the Local Government (Miscellaneous Provisions) Act 1982

Sex Shop Sex Cinema Sexual Entertainment Venue (please tick)

The applicant/s may wish to consult the Council's Sex Establishment Policy prior to completion of this application.

Please use **BLOCK CAPITALS**

1. Applicant Details

Surname	Forename	Title (Mr/Mrs/Miss/Ms/Other)	Date of Birth
WELLHOT LTD			
Address* OSS IND. PARK		e-mail	
CLAYBANK ROAD		Telephone no.	
PORTSMOUTH		Alt Telephone no.	
		Fax	
Postcode PO3 5SX		Mobile	

**if a Body Corporate, name of Body and Registered Address*

Important note, In the case of a Company/Partnership being the applicant please use additional paper to provide full names, private addresses, and dates of birth, of all directors or persons responsible for management of the establishment, or partners of a Partnership.

2. Additional information (not required if applicant is Body Corporate)

Ethnic origin

[Redacted area]

3. The Premises (If this application relates to vehicle/vessel/stall give description of where it is to be used)

Name	WIGGLE	Telephone no.	
Address	33, NEW STREET	Alt. Telephone no.	
	WEYMOUTH	Fax	
	DORSET		
Postcode	DT4 8DB		

P.T.O

4. Declaration

	Yes	No
Are any of the applicants disqualified from holding a licence for a sex establishment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Have any of the applicants previously been refused a licence for a sex establishment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If 'Yes' Please provide details _____		
Have any of the above applicants ever been convicted of any offence under the 1982 Act?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If 'Yes' Please give details		
Offence _____		
Date Of Conviction _____		
Date spent (if Known) _____		
Court _____		

5. Your Signature

On signing this form you declare that any information you have provided is true and complete in every respect. The giving of false information may result in revocation of the licence and possible enforcement action taken against you that may result in prosecution.

I/We enclose the relevant application fee (£720.00)

I/We enclose the relevant Criminal Record Check/s (Standard Disclosure)

I/We have forwarded a copy of this application to the Chief of Police, Licensing Section, Bournemouth Dorset Police, 5 Madingley Road, Bournemouth, Dorset, BH1 1QQ

Signature _____ Date 18-11-21

Print Name Jaspal Ojla

Notes

1. A licence may only be granted to an individual over the age of eighteen or a body corporate
2. A licence is valid from the date of issue.

This form should be returned to:
Licensing, Dorset Council, South Walks House, South Walks Road, Dorchester, Dorset DT1 1UZ

Data Protection Act 1998

Dorset Council (the Data Controller) will use and manage the personal information supplied on this form for the purpose of processing your application in accordance with that set out in the above Act.

The information that you supply will be secure and protected against unauthorised access and use.

If any of the information supplied, is to be processed outside of Weymouth and Portland Borough Council we will obtain your consent to do so. If any information is of a sensitive nature (i.e health matters) we will always obtain your consent before it is processed.

You have the right to see personal information that we hold about you. For further details contact the Councils Corporate Data Protection Officer, Dorset Council, South Walks House, South Walks Road, Dorchester, Dorset, DT1 1UZ

**STANDARD CONDITIONS ATTACHED TO THE ISSUE OF
Sexual Entertainment Venue Licence WPSEV0001**

1. DESIGNATED AREAS

The authorised entertainment must only take place in designated areas approved by the Council.

2. NO ADMITTANCE UNDER THE AGE OF 18 YEARS

No person under the age of 18 must be on the premises when the entertainment authorised by the licence is taking place.

A clear notice must be displayed at each entrance to the premises, in a prominent position so that it can easily be read by people entering the premises, stating:

'No persons under 18 years will be admitted'

3. PERFORMERS

Performers shall not be aged less than 18 years. The Licensee must maintain and keep copies of the names, addresses and dates of birth of performers including identity checks. Normal proof of age documents accepted as for alcohol sales.

Performers shall only perform on the stage(s), to a seated audience or in other such other areas of the licensed premises as may be agreed in writing with the Council. ("the performance areas")

Performers and all staff must remain dressed in public areas except while performing in areas specified by the Council as where sexual entertainment may be provided.

Performers must re-dress at the end of each performance.

Performers must never be alone in the company of a customer except in the designated booths on the first floor of the premises.

Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card, which must be surrendered to the Licensee or their representative before leaving the premises.

Performers must not, when performing sit on or straddle a customer.

Performers must not when performing, place both of their feet or knees on the seat at any one time. For the avoidance of doubt performers may rest one foot or knee on the seat and/or lean on the seat with one or both hands.

Performers must not when performing, perform any act that clearly simulates any sexual act nor use any sex toy.

Performers must not when performing, intentionally touch the genitals of another dancer or to knowingly permit another dancer to intentionally touch their genitals.

Performers must not when performing, intentionally touch a customer at any time during the performance unless accidentally or due to a third party or for the purpose of restraint. For the avoidance of doubt if a performer has to intentionally touch a customer for the purpose of restraint, the touch should only be made above the customer's chest or on their limbs and only with the performer's hands.

Performers must not when performing act in a lewd manner, or use suggestive or sexually graphic language at any time.

Performers must not engage with the customer in any act of, or communication likely to lead to an act of prostitution or solicitation, even if the Performer has no intention of carrying out the act.

4. CCTV

CCTV must be installed, maintained and be in working order at all times. It must cover all areas where dancing will take place and at the entrance of the premises. All cameras shall continually record whilst the premises are open to the public.

All CCTV tapes or other medium used for CCTV recording, must be kept for 31 days with accurate time and date markings, and must not leave the premises unless requested by the Police or the licensing authority; or destroyed at the premises with the records kept of such destruction. Destruction records must include the name and position within the organisation of the person(s) who destroyed the tape or other medium, the reason for the destruction and the identity of the tape or other medium that was destroyed.

No copying of the CCTV tapes or other mediums is permitted.

The Data Protection Act 1998 also covers the use of CCTV tapes and other CCTV mediums.

5. PATRONS

The licence holder must take all reasonable steps to ensure patrons remain seated and fully clothed whilst the authorised entertainment is taking place. No voluntary audience participation will be permitted.

Patrons will not be permitted to arrange contacts or liaisons with the dancers whilst on the licensed premises or exchange telephone numbers or other means of making future contact with each other.

Patrons shall not be permitted to throw money at the performers or take photographs of them.

Customers must be seated in an upright position against the back of the booth or seat with their hands by their sides or on their knees before a dancer can start a table dance.

Customers must remain seated during the entire performance of a private dance.

During times when performances of sexual entertainment are taking place, customers may only dance in areas specifically designated by the Council as being separate from the areas for performance of sexual entertainment.

Customers must remain dressed at all times.

6. DOOR SUPERVISORS

There shall be at least 1 door supervisor per 100 persons on the premises when the authorised relevant entertainment is taking place to ensure good order and the safety of performers and customers. Door supervisors must be Security Industry Authority (SIA) registered.

7. NO NUDITY VISIBLE OUTSIDE

Entertainment including dancing, which involves nudity or sexual performances of any kind must not be visible from the outside of the premises.

8. ADVERTISING

There must be no display visible on the outside of the premises either in writing, symbols, photographs or other images, which indicate that entertainment involving nudity or sexual performances takes place on the premises. Performances shall not be subject to any advertising involving the distribution of leaflets; promotion by canvassers or touting.

9. HOUSE RULES

The licence holder shall provide a copy of the House Rules to the licensing authority for approval. A clear copy of these conditions and the house rules shall be given to all performers and displayed at all times in or near the performers' changing rooms. A clear copy of the house rules shall be displayed at the reception and on each table and each bar area.

10. CHANGING ROOMS/FACILITIES

Secure private changing facilities must be provided for the performers (to include private toilet and washing facilities and/or shower facilities, the numbers and design of facilities to be approved prior to installation).

No persons other than performers and authorised staff shall be permitted in the changing room/s.

Sent: 09 December 2021 13:56

To: LicensingTeamB <LicensingTeamB@dorsetcouncil.gov.uk>

Subject: Representation against the granting of Sex Establishment license to Wiggle, 33 New Street, Weymouth, DT4 8DB

Dear Sir/Madam,

Having just moved to the area and be in the process of setting up a holiday rental apartment at [REDACTED] [REDACTED] was horrified to see the notice for the above application.

I would like to complain strongly against this type of venue or establishment being allowed in this area, which is currently very pleasant and peaceful (in the main).

I believe that this type of establishment encourages poor behaviour, will undoubtedly increase noise volumes, particularly late at night, and be detrimental to society in the local area.

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**Weymouth and Portland Borough Council
Sex Establishment Policy 2016 to 2020**

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Appendices

- A Model Pool of Conditions re: sex entertainment venues
- B Model Pool of Conditions re: sex shops
- C Model Pool of Conditions re: sex cinemas
- D Membership rules for club cinemas

1 Introduction

- 1.1 Weymouth and Portland Borough Council has adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the amendments made to Schedule 3 by S.27 of the Policing and Crime Act 2009 with regard to sex establishments. The Council will apply this policy to sex establishments within its area to ensure consistency of decision making and enforcement. Each application for grant, variation, transfer or renewal will however be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.
- 1.2 There are 3 different types of sex establishment licensable under the above Act. These are sex shops, sex cinemas and sexual entertainment venues. If one premises operated as more than one of these establishments, a separate licence for each activity is required.
- 1.3 No sex establishment, as defined by Schedule 3, can operate unless it has consent from the Council or the requirement for a licence has been waived by the Council.

- 1.4 The Council will have regard to a number of factors and conditions when determining any premises application or variation, etc for sexual entertainment. These factors and conditions are outlined in this document.

2. Scope of Legislation & Definitions

- 2.1 A sex establishment according to the Local Government (Miscellaneous Provisions) Act 1982 as amended is a sex shop, sex cinema or sexual entertainment venue.

- 2.2 A sex shop is defined as '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 or other things intended for use in sexual activity.

There is no definition of significant degree.

- 2.3 A sex cinema is defined as any premises (except a dwelling house to which the public are not admitted), vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures concerned primarily with the portrayal of, deal with, or relate to sexual activity.

- 2.4 A sexual entertainment venue is defined as any premises (except a dwelling house to which the public are not admitted), vehicle, vessel or stall at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Relevant entertainment is defined as any live performance or live display of nudity which is of such nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means). An audience can consist of one person.

The following forms of entertainment would generally be understood to fall within the definition; Lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

3. Application Process

3.1 The process for an application under the provisions of the LGMPA 1982 is as follows:

- The applicant must be over the age of 18 and not disqualified from holding such a licence
- The applicant must submit to the Council an application containing information as may be reasonably required by the authority. A copy of the application form can be requested from the Council
- A copy of the application must be served on Dorset Police within 7 days after the date of the application. The application must be advertised within 7 days in a local newspaper
- The application must be advertised by way of a public notice on the premises for 21 days beginning with the date of the application, on or near the premises in a place where it can be conveniently read by members of the public
- The applicant must submit to the Council the required fee

3.2 The Council will therefore require a completed application form containing the following information:

- The name and home address of the applicant
- Details of any business partners or other staff involved in the business
- If a company, the registered name and address of the company, the names of directors and shareholders of the company
- If the shareholder, or a shareholder of the company is another company then details may be required as to the membership of that company
- If the premises are a leasehold, information about who holds the lease and if it is a head lease or sub-lease

3.3 The Council will also require a criminal record check (standard disclosure) issued within the last month. This would apply to the applicant and all of the directors if the applicant is a company. The cost of any criminal record checks will be paid by the applicant.

3.4 Each application will also require a statement showing how the applicant will operate the premises, together with a location plan of the premises in relation to buildings within 100 metres and an internal detailed layout plan including the location of all exits and entrances (Scale 1:50)

As well as exits/entrances internal plans should contain:

- Sex shops – the location of the sales counter and the location of any rooms to which the public do not have access

- Sex cinemas – the location of the screen/s and the seating layout for customers
- Sexual entertainment venues – the location and height of any stages/raised areas or areas where performances take place and the seating layout for customers

The statement, plan, views of the Police and Business Licensing Manager or other duly authorised Officer, and the general acceptability of the premises for the type of “entertainment” applied for will be important considerations for the Committee or Sub-Committee when determining the application.

4. Waiver Process

- 4.1 Upon written application, Weymouth and Portland Borough Council may waive the requirement to a licence in any case where it considers a licence would be unreasonable or inappropriate.
- 4.2 Each application for waiver will be considered on its own merits taking into account the type of activity, frequency, circumstances and controls.

5 Consideration of the Impact of a sex establishment

- 5.1 In considering applications for the grant of a sex establishment licence or variation the Council will consider the potential adverse impacts particularly to local residents.
- 5.2 Any person is entitled to object to an application for grant / renewal / variation / transfer of a sex establishment. They must do so, in writing, stating in general terms the grounds of the objection, no later than 28 days after the date of the application. All objections will be openly copied to Members of the Licensing Committee or Sub-Committee for their use when considering any application.

The Council are required to have regard to relevant objections and police observations.

6 Consultation process

- 6.1 Before a sex establishment licence is granted varied or renewed the Council **will** consult with any person it deems necessary to enable it to make an informed decision. In particular, the Council **will** consult the following:

- Dorset Police
- Dorset Fire and Rescue Service
- Ward Councillors
- Town Councils
- Other Council departments such as Environmental Health and Planning
- Local residents

6.2 The Council may take into consideration the following:

- * Type of activity
- * Duration of the activity
- * Layout and condition of the premises
- * Use and character of the surrounding premises in the vicinity i.e. residential/commercial
 - * Potential impacts on crime and disorder
 - * Potential impacts on people who may be vulnerable as a result of their gender, disability, race, age, religion and belief or sexual orientation.
 - * Cumulative impact of premises within the vicinity

This list is not exhaustive.

7 Determining and granting an application

7.1 In determining any contested applications for sex establishments, the Council's Licensing Committee or Sub Committee shall have regard to the relevant matters in the legislation and this policy. Each case will be assessed on its own merits and individual circumstances may be taken into consideration.

7.2 Contested applications may be heard by a Committee or Sub Committee of the Council except in the following cases:

- The Business Licensing Manager or other duly authorised Officer has deemed all objections as frivolous and/or vexatious and is therefore satisfied that the application should be granted
- The Business Licensing Manager or other duly authorised Officer has decided to grant the licence subject to the attachment of suitable conditions, following mediation between applicant(s) and objector(s).

7.3 Once arrangements have been made to hear an application, the applicant will be informed in writing of the date, time and place of the hearing. They will be expected to attend the hearing and can be accompanied by a solicitor, or supported by a friend or colleague.

8 Considerations Based on Location

8.1 There will be a presumption against granting consent for any sex establishment licence when the proposed premises are in the vicinity of:

- schools, colleges, nurseries, play areas, children's centres or any other premises predominantly used for and by children
- Any access route to and from any of the above premises
- Any place of religious worship
- Prime visitor locations such as Weymouth Esplanade/Seafront/Harbourside
- Dense retail areas
- Museums, libraries, Council buildings, or other community and public buildings.
- Any community premises such as swimming pools, leisure centres, youth centres, clubs, shelters, public parks and recreational areas
- Historic buildings and Tourist attractions
- Residential Homes
- An area proposed for regeneration
- Any premises of a similar nature to the above

8.2 It is not considered appropriate to define a precise distance from any of the above premises as sufficiently far enough away to make a sex establishment suitable and each case will be considered on its own merits and in light of any consultation undertaken.

9 Grounds for Refusal

9.1 The Act provides Local Authorities with two grounds for refusal, mandatory grounds and discretionary grounds. Where an application falls within a mandatory ground for refusal the Council shall have no discretion but to reject the application.

9.2 The Mandatory grounds for refusal within the Act are as follows:

- The applicant is a person under the age of 18;
- The applicant is a person who is for the time being disqualified following the revocation of a licence; or
- The applicant is 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 of the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

9.3 The discretionary grounds for refusal within the Act are as follows:

- The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason

- The applicant is merely a front for a person who would otherwise be refused a licence
- The number of sex establishments in the relevant locality exceed the number which the authority consider appropriate for the area.
- The licence would be inappropriate having regard to the relevant locality, or to the use to which the premises in the vicinity are put, or to the layout, character and condition of the premises in respect of which the application is made

9.4 The Council will therefore consider each application on its merits in relation to the above grounds.

10 Suitability of applicant

10.1 The Council wishes to ensure that only applicants who are suitable will be granted licences and only in relation to suitable premises. The Council will therefore consider the following grounds:

- Any convictions or cautions of the applicant
- If a Company, any convictions or cautions of Directors of the company to ensure that the company is not being used as a front for persons who would otherwise not be licensed
- The involvement of any other person in the operation of the premises, or prior business relationships with other people who would otherwise not be licensed by the Council
- The experience of the applicant and their knowledge of running a sex establishment
- Any previous licence held by the applicant, whether in this Council's area or another
- Any report or information submitted to the council by the Police, other consultees and objectors

10.2 The suitability of each applicant will be considered on its own merits but in cases where the applicant, or one of its members, has an unspent conviction, the Council will normally refuse the application unless they are satisfied by the applicant that there are exceptional circumstances to justify the granting of the licence.

10.3 Where an objection has been raised by the Police or another consultee regarding the suitability of the applicant the Council will in most cases defer to the experience and knowledge of the consultee and refuse the application unless they are satisfied by the applicant that there are exceptional circumstances to justify the granting of the licence.

11 Duration of Licences

11.1 Licences shall be issued for a maximum period of one year but can be issued for a shorter term if deemed appropriate.

12 Renewal of Licences

12.1 On application to renew a licence for the same proposed hours and licensing activities and conditions as previously granted, the Council shall give due weight to the fact the licence was granted in the previous year and any years before that.

13 Legal implications

When considering its functions, a local authority has to bear in mind the Human Rights Act and the Crime and Disorder Act 1998. It is considered that the policy meets the requirements of both these Acts.

14 Appeals

The following persons have the right of appeal to the Magistrates Court within 21 days from the date of notification of the decision:

- Applicants for grant, renewal, transfer or variation whose application is refused
- A licence holder who is aggrieved by conditions
- A licence holder whose licence is revoked

N.B. There is no right of appeal against refusals on grounds that:

- There are sufficient sex establishments in the locality
- Grant has been deemed inappropriate having regard to the character of the locality, use to which the premises are put, layout, character and condition of premises.

15 The EU Services Directive

Tacit consent does not apply to an application for a new sex establishment licence as local residents and the Police have a legitimate interest in the outcome of sex establishment applications. If an application is not processed within a defined period of time it will not be deemed granted.

APPENDIX A
MODEL POOL OF CONDITIONS

RE: SEXUAL ENTERTAINMENT VENUES
Premises and Performers

DESIGNATED AREAS

- 1) The authorised entertainment must only take place in designated areas approved by the Council.

NO ADMITTANCE UNDER THE AGE OF 18 YEARS

- 2) No person under the age of 18 must be on the premises when the entertainment authorised by the licence is taking place.

A clear notice must be displayed at each entrance to the premises, in a prominent position so that it can easily be read by people entering the premises, stating:

“No persons under 18 years will be admitted”

PERFORMERS UNDER 18 YEARS

- 3)
 - a) No performers or other employees on the premises during the authorised entertainment shall be under 18 years of age.
 - b) The proprietor/director of the company is to ensure that, prior to engagement, all performers for approved adult entertainment shall provide documents of proof that they are over 18 years of age. Copies of such documents shall be retained on the performers’ file held at the premises.

NO PHYSICAL CONTACT

- 4) There must be no sexual physical contact between performers.

There must be no physical contact between performers and customers before, during or after the performance (other than the transfer of money or tokens to the hands of the dancer at the beginning or conclusion of the performance). Notices to this effect shall be clearly displayed at each table and at each entrance to the premises.

-

PERFORMANCE

- 5) a) No performer shall be allowed to work if, in the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
- b) Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the audience
- c) Any performance will be restricted to dancing and the removal of clothes. There must not be any other form of sexual activity or stimulation
- d) No performance shall be visible to any person outside the premises (eg. through windows or open doors)
- e) Sex toys must not be used and penetration of the genital area by any means must not take place

Lap dancers must not:

- Show their genitals or anus
- Sit on customer's laps (dry ride)
- Climb onto the furniture provided for patrons

Podium dancers must not:

- Entice other dancers onto the podium
- Interfere with their undergarments (if worn) in such a way as to show their genitals or anus

CCTV

- 6) CCTV must be installed, maintained and be in working order at all times. It must cover all areas where dancing will take place and at the entrance of the premises. All cameras shall continually record whilst the premises are open to the public.

All CCTV tapes or other medium used for CCTV recording, must be kept for 31 days with accurate time and date markings, and must not leave the premises unless requested by the Police or the licensing authority; or destroyed at the premises with the records kept of such destruction. Destruction records must include the name and position within the organisation of the person(s) who destroyed the tape or other medium, the reason for the destruction and the identity of the tape or other medium that was destroyed.

No copying of the CCTV tapes or other mediums is permitted.

The Data Protection Act 1998 also covers the use of CCTV tapes and other CCTV mediums.

PATRONS

- 7) The licence holder must take all reasonable steps to ensure patrons remain seated and fully clothed whilst the authorised entertainment is taking place. No voluntary audience participation will be permitted.

Patrons will not be permitted to arrange contacts or liaisons with the dancers whilst on the licensed premises or exchange telephone numbers or other means of making future contact with each other.

Patrons shall not be permitted to throw money at the performers or take photographs of them.

DOOR SUPERVISORS

- 8) There shall be at least 1 door supervisor per 100 persons on the premises when the authorised relevant entertainment is taking place to ensure good order and the safety of performers and customers. Door supervisors must be Security Industry Authority (SIA) registered.

NO NUDITY VISIBLE OUTSIDE

- 9) Entertainment including dancing, which involves nudity or sexual performances of any kind must not be visible from the outside of the premises.

ADVERTISING

- 10) There must be no display visible on the outside of the premises either in writing, symbols, photographs or other images, which indicate that entertainment involving nudity or sexual performances takes place on the premises. Performances shall not be subject to any advertising involving the distribution of leaflets; promotion by canvassers or touting.

HOUSE RULES

- 11) The licence holder shall provide a copy of the House Rules to the licensing authority for approval. A clear copy of these conditions and the house rules shall be given to all performers and displayed at all times in or

near the performers' changing rooms. A clear copy of the house rules shall be displayed at the reception and on each table and each bar area.

CHANGING ROOMS/FACILITIES

- 12) a) Secure private changing facilities must be provided for the performers (to include private toilet and washing facilities and/or shower facilities, the numbers and design of facilities to be approved prior to installation).
- b) No persons other than performers and authorised staff shall be permitted in the changing room/s.

APPENDIX B

MODEL POOL OF CONDITIONS RE: SEX SHOPS

GENERAL

1. The grant of a licence for a sex shop shall not be deemed to convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.

TIMES OF OPERATION

2. Except with the previous consent of the Council, a sex shop shall not be open to the public before 08:00 and shall not be kept open after 20:00 on any Monday, Tuesday, Wednesday, Thursday, Friday and Saturday. It may not open before 10:00 or close later than 16:00 on any permitted Sunday.

CONDUCT AND MANAGEMENT OF SEX SHOPS

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 notify the licensing authority in writing within 14 days of such change and such written details as the licensing authority may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request from the licensing authority.
4. The Licensee or some responsible person nominated by the Licensee in writing for the purpose of managing the sex shop in the Licensee's absence and of whom details have been supplied and approved in writing by the licensing authority shall be in charge of and upon the premises during the whole time they are open to the public.
5. The name of the person responsible for the management of a sex shop, whether the Licensee or a manager approved by the licensing authority shall be prominently displayed within the sex shop throughout the period during which that person is responsible for its conduct.
6. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the sex shop in the Licensee's absence and the names and addresses of those employed in the sex shop. The Register is to be completed each day within 30 minutes of the sex shop opening for business and is to be available for inspection by the Police and by authorised officers of the licensing authority.

7. The Licensee shall provide the Council with a list of all staff employed at the premises and shall advise the Council and the Dorset Police in writing of all staff changes within fourteen days of such changes. The licensee shall ensure that all staff are subject to a Criminal Record Check (basic disclosure) at least annually and copies of the checks shall be made available to the Council.
8. The Licensee shall retain control over all portions of the premises and not let, licence or part with possession of any part of the premises.
9. No person under the age of 18 shall be admitted to the premises or employed in the business of a sex shop, and a notice to this effect shall be displayed in the lobby between the double doors leading into the shop so that they are visible before entering the shop but not visible from the outside.
10. The Licensee shall ensure that the public is not admitted to any part or parts of the premises other than those, which have been approved by the licensing authority.
11. Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex shop by means of personal solicitation outside or in the vicinity of the premises. No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.
12. The Licensee shall maintain good order in the premises.
13. The Licensee shall ensure that during the hours the sex shop is open for business every employee wears a badge of a type to be approved by the Council indicating their name and that they are an employee of the sex shop.
14. A copy of the licence and of these conditions are to be exhibited in accordance with paragraph 14 (1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. They shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and the copy of these conditions shall be retained in the shop in a clean and legible condition.

CHANGE OF LOCATION AND ALTERATIONS TO PREMISES

15. In the case of licensed premises which are a vessel or stall, the Licensee shall not move the licensed vessel or stall from the location specified in the licence unless the licensing authority is given not less than 28 days notice in writing of such intended removal along with such fee as may be deemed reasonable. This requirement shall not apply to a vessel or stall that habitually operates from a fixed location but is regularly moved (whether under its own propulsion or otherwise) from another place as is specified in the licence.
16. In the case of a business conducted from fixed premises, no alteration of any kind shall be made to the interior or the exterior of the premises including any change in the permitted signs displayed thereat or in the manner in which the windows and doors are obstructed unless the Licensee shall first obtain written consent from the licensing authority.

USE

17. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
18. No change of use of any portion of the premises from that approved by the licensing authority shall be made until the consent of the licensing authority has been obtained.
19. No change from a sex shop to a sex cinema shall be effected without the consent of the licensing authority.

GOODS AVAILABLE IN SEX SHOPS

20. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.
21. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the sex shop.
22. No film or video film 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 licensing authority, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

23. The Licensee shall, without charge, display and make available in the sex shop such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as may be specified and in particular any such material relating to AIDS as may be supplied by the licensing authority. Such literature is to be displayed in a prominent position.

EXTERNAL APPEARANCE

24. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or similar matter shall be displayed outside the premises without the written permission of Weymouth and Portland Borough Council, except for those signs or notices that are required to be displayed by these licence conditions.
25. The entrance to the premises shall be so designed and constructed as to prevent persons outside the premises having a view of the interior.
26. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
27. No window shall contain any sign, advertising material, goods or display without the written consent of the Borough Council.

STATE, CONDITION AND LAYOUT OF THE PREMISES

28. Lighting in all parts of the premises must be in operation continuously during the whole time the premises are open as a sex shop.
29. The premises shall be maintained in good repair and condition.
30. All parts of the premises shall be kept in a clean and hygienic condition to the satisfaction of the licensing authority.
31. Doors and openings which lead to parts of the premises which are not open to the public shall be clearly marked "staff only" or by some other sign that deters the public from using such doors or openings.
32. The external doors to the sex shop shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in a good working order.
33. The number, size and position of all doors or openings provided for the purposes of ingress and egress of the public shall be approved by the Council. Any entrance to and exit from the shop shall be provided with a lobby, which has two sets of doors, one opening to the street and one into

the shop. The lobby shall be so arranged as to prevent passers by from looking into the shop whilst persons are entering or leaving the shop.

34. The Licensee shall make provision in the means of access both to and within the sex shop for the needs of members of the public visiting the premises who are disabled.
35. All exhibits, displays, demonstrations and like activities must be open and available to all customers at no charge and there shall be no individual cubicles or rooms designed to accommodate individual persons or groups of persons where exclusive demonstrations, displays, exhibits or similar activities may take place, unless authorisation/consent is first granted by the Council.
36. The licensee shall take all reasonable precautions for the safety of the public and employees.
37. The Licensee shall comply with any fire prevention and safety measures that may be required by the Council and/or Dorset Fire and Rescue Service and shall maintain and keep available for use all specified fire fighting equipment and extinguishers.
38. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall be made except with prior approval of the licensing authority.
39. A CCTV system shall be installed and fully operational before a licence is issued with a camera directed at each entry point, with the front door camera positioned to get a clear image of people as they enter the shop. Additional cameras must be installed looking at all internal areas for the protection of the staff. The CCTV system is to be maintained in good working order and to record continuously while the shop is open with the recordings date coded. The tapes or disks from the recorder are to be kept on site in a secure place for 6 weeks and available for examination by authorised officers of the authority and the Dorset Police. A sign must be displayed at the shop entrance indicating that there is a CCTV system in operation.

APPENDIX C

MODEL POOL OF CONDITIONS RE: SEX CINEMAS

DISPLAY OF TARIFF OF CHARGES

- 1) There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

SEATING

- 2)
 - a) The premises shall not be used for a closely-seated audience, except in accordance with plans approved by the Council
 - b) No article shall be attached to the back of any seat which would either reduce the clear width of seatways or cause a tripping hazard or obstruction.
 - c) A copy of the approved seating plan(s) shall be kept available at the premises and shall be shown to Council officers on request.

STANDING AND SITTING IN GANGWAYS

- 3)
 - a) In no circumstances shall persons be permitted to:-
 - (i) Sit in any gangway ; or
 - (ii) Stand in any gangway which intersects the seating; or
 - (iii) Stand or sit in front of any exits.
 - b) Waiting and standing shall not be permitted except in areas approved by the Council; and subject to the conditions specified in such approval.

WHEELCHAIRS

- 4) **PLEASE NOTE:** In addition to the duties imposed by the Disability Discrimination Act 1995, it is the Council's policy that wherever possible there should be proper access for disabled people including wheelchair users. Consequently the Council will grant consent whenever it can do so without risk to persons using the premises.

SPECIAL RISKS AND SPECIAL EFFECTS

- 5) Any activity which involves special risks, (e.g. use of firearms), and special effects, (e.g. lasers, dry ice and smoke machines, strobe lighting, real flame, pyrotechnics), or the bringing onto the premises of any explosive or flammable substance may only be permitted or used with the Council's prior consent in writing. At least seven days' notice shall be given for an application for consent under this rule. Full details of what is proposed shall be given including the date and time of any proposed rehearsal.

MINIMUM LIGHTING

- 6) The level of normal lighting in the auditorium shall be as great as possible consistent with the effective presentation or exhibition of the pictures.

PLEASE NOTE: At premises licensed by the Council for film exhibitions, the level of illumination maintained in the auditorium during the showing of pictures will be regarded as satisfactory if it complies with the standards specified in the current edition of British Standard Code of Practice C.P.1007. Maintained Lighting for cinemas published by the British Standards Institution

FILM CATEGORIES

- 7) The categories U, PG, 12, 15 and 18 have the following effect:-

U	Universal - suitable for all
PG	Parental Guidance. Some scenes may be unsuitable for young children
12	Passed only for persons of 12 years and over
15	Passed only for persons of 15 years and over.
18	Passed only for persons of 18 years and over.
Restricted (18)	Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

EXHIBITION OF FILMS

- 8) No film shall be exhibited at the premises unless:
- (a) it is a current news-reel; or
 - (b) it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council; or

RESTRICTED (18) FILMS – COUNCIL’S CONSENT

- 9) Films in the RESTRICTED (18) category may be shown at the premises only with the Council’s prior written consent and in accordance with the terms of any such consent.

UNCLASSIFIED FILMS

- 10) Not less than twenty-eight days notice in writing shall be given to the Council of any proposal to exhibit any other film which has not been classified as specified in rule 39 or 40 above. Such a film may only be exhibited if the Council’s prior written consent has been obtained and in accordance with the terms of any such consent.

AGE RESTRICTION NOTICE

- 11) When the programme includes a film in the 12, 15 or 18 category no person appearing to be under the age of 12, 15 or 18 as appropriate shall be admitted to any part of the programme. The licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms: PERSONS UNDER THE AGE OF (insert 12, 15 or 18 as appropriate) CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

PLEASE NOTE: Where films of different categories are shown the notice shall refer to the oldest age restriction.

CATEGORY NOTICES

- 12) Immediately before each exhibition at the premises of a film (other than a current news-reel) there shall be exhibited on the screen for at least 10 seconds in such a manner as to be easily read by all persons in the auditorium. For a film passed by the British Board of Film Classification - a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board.

OBJECTION TO EXHIBITION OF A FILM

- 13) No film shall be exhibited at the premises:-
- (1) which is likely:-
 - (a) to encourage or to incite crime; or
 - (b) to lead to disorder; or
 - (c) to stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or
 - (d) to promote sexual humiliation, degradation or violence.
 - (2) the effect of which is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely to see it; or
 - (3) which contains a grossly indecent performance thereby outraging the standards of public decency

If the licensee is notified by the Council in writing that it objects to the exhibition of a film on any ground, such film shall not be exhibited.

POSTERS, ADVERTISEMENTS, ETC.

- 14) Every poster, advertisement, photograph, sketch, synopsis or programme of, or relating to a film (other than a current news-reel) exhibited or to be exhibited at the premises, which is displayed, sold or supplied anywhere by or on behalf of the licensee shall indicate clearly the category in which the film has been passed for exhibition.

FLAMMABLE FILMS

- 15) No flammable films may be upon the premises without the prior consent of the Council in writing.

RULE RELATING TO TELEVISION EXHIBITIONS – ENTERTAINMENTS UNSUITABLE FOR SOME AUDIENCES

- 16) When any television entertainment or part of such entertainment is described by the broadcasting authority in advance of the day on which it is to be broadcast as unsuitable for viewing by any particular group of persons, a notice to that effect, indicating the group of persons concerned, shall be displayed in a conspicuous position to the satisfaction of the Council at each entrance to the premises.

RESTRICTED 18 CATEGORY – ADDITIONAL CONDITIONS FOR ‘CLUB’ CINEMAS (SHOWING FILMS IN THE RESTRICTED 18 CLASSIFICATION)

17) (a) No club showing films in the ‘restricted 18’ category may operate in a multi-screen complex whilst persons under 18 are being admitted to any performance in the complex unless the Council’s written consent has first been obtained.

(b) When the programme includes a film in ‘restricted 18’ category the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:-

CINEMA CLUB - MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME

(In case of a multi-screen complex where consent has been granted the notice shall specify the particular part of the premises in which films in the ‘restricted 18’ category are being exhibited).

(c) All registers of members and all visitors’ books of their guests shall be available for immediate inspection by the Council’s Officers during any performance, or at any other reasonable time.

(d) Tickets shall in no circumstances be sold to persons other than members.

(e) No persons under 18 years of age shall be employed in any capacity at licensed premises which are operating as cinema clubs.

(f) Subject to prior written consent by the Council, a subscription may entitle the club member to attend other clubs under the same management.

(g) Membership rules for these club cinemas shall include the matters set out in Appendix A, be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.

RULES WHICH APPLY TO SEX CINEMAS WHERE THERE ARE SPECIAL CIRCUMSTANCES

* Larger premises will usually be taken to mean premises having a maximum accommodation limit in excess of 300 persons

ATTENDANTS – NUMBERS IN CINEMAS

18) (a) In the case of cinemas which are not equipped with a staff alerting system the number of attendants on duty in any zone where customers are present shall not be less than one for every 250 persons (or part thereof) present in that zone provided that an attendant shall be present in any auditorium where the number of customers present in that auditorium exceeds 150 persons.

(b) In the case of a cinema equipped with staff alerting and communication systems the number of attendants shall be the following scale:

PERSONS PRESENT	ATTENDANTS ON DUTY	STAFF ON CALL IN AN EMERGENCY
Up to 250	1	0
251 to 500	1	1
501 to 750	1	2
751 to 1000	2	3
1001 to 1500	3	3
1501 to 2000	3	4

(c) Attendants shall remain in their allocated zone and where there is more than one auditorium within the zone shall patrol throughout the zone and need not remain within a particular auditorium.

NOTE: For the purpose of this rule:

- (i) "Floor" means a level on which the entrances to one or more auditoria, or a separate level of an auditorium, are situated.
- (ii) "Zone" means part of a floor where the greatest distance of travel between an entrance to the two most distant auditoria does not exceed 100 metres.
- (iii) "Staff alerting system" means a system by which staff who are available on duty or on call may be warned that a fire or other emergency has arisen on the premises
- (iv) A member of staff is not "on call" if:

- (a) they are the licensee or the person nominated for the time being to be in charge of the premises.
- (b) their normal duties or responsibilities are likely materially to affect adversely or delay their response to an emergency situation
- (c) they are more than 75 metres from:-
 - (i) the position to which they are required to go on alerting signals being activated;
 - (ii) a doorway normally affording a means of egress for the public from a floor or zone.

APPENDIX D

MEMBERSHIP RULES FOR CLUB CINEMAS

The membership rules for club cinemas where restricted (18) films are to be shown should include the following:

- (a) The club rules must be submitted to the Council 14 days before the club commences operations and notice of all rule changes shall be given to the Council within 14 days of the change.
- (b) Only members and their guests shall attend exhibitions of moving pictures classified in the restricted (18) classification.
- (c) Membership shall be open to persons of both sexes of not less than 18 years of age. Applications for membership, including both name and address, shall be in writing, signed by the applicant, and if deemed necessary such applicants shall provide satisfactory references and proof of age.
- (d) No person shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the licensed proprietors.
- (e) New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
- (f) An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the licensed proprietors may refuse to renew any membership without assigning reason for such refusal.
- (g) Members shall be entitled on any day to bring not more than one guest to accompany the member, and the name of the guest shall be entered in the visitors' book and counter-signed by the member.
- (h) On admission a member and his guest shall be bound by the rules of the club and by any by-laws and regulations made there under.

- (i) Tickets shall be sold only to members on the production of a membership card, and members shall, if required, sign an acknowledgement for the ticket or tickets issued.
- (j) Membership cards shall be personal to the member and shall not be transferable to any other person.
- (k) Neither membership tickets nor guest tickets shall be transferable.
- (l) No member shall introduce as a guest any persons under the age of 18 or any persons whose application for membership has been refused. The licensed proprietors will reserve the right to refuse admission to any person.
- (m) Proof of identify, or of age, or of any particulars of any guest shall be produced by any member or guest if demanded by the licensed proprietors.
- (n) Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Licensing Committee

27 January 2022

Delegated powers for urgent revocations or suspensions to taxi licences

For Decision

Portfolio Holder: Cllr L Miller, Customer and Community Services

Local Councillor(s): N/A

Executive Director: J Sellgren, Executive Director of Place

Report Author: Aileen Powell
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Report Status: Public

Recommendation:

1. That the Licensing Committee delegate authority to the Executive Director of Place in consultation with the Chair (or vice chair) of the Licensing Committee to **immediately** suspend or revoke a Hackney Carriage / Private Hire vehicle drivers licence where it is considered necessary in the interest of public safety and:
2. That a 'fast track' procedure be adopted to re-licence those drivers who have had their licence revoked but have subsequently been found to be fit and proper.

Reason for Recommendations:

To ensure the safety of the travelling public and fairness and proportionality for those accused but subsequently found to be fit and proper to hold a licence.

1. Executive Summary

- 1.1 Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 the Council, as Licensing Authority has the power to suspend, revoke or refuse to renew a hackney carriage / private hire driver's licence.
- 1.2 Dorset Council's Constitution delegates all powers relating to taxi licensing to the Licensing Committee (and/or Sub-Committee) and the majority of decisions that relate to whether a taxi driver should keep their licence will be referred to a Sub-Committee for a decision.

1.3 Occasionally however, there are situations when it is necessary for immediate action to be taken, when even delaying a decision for the time it takes to prepare a report and organise a committee meeting would potentially give rise to an unacceptable risk to the public.

1.4 The recommendation is that where officers are of the view that an incident or allegation is so serious that any delay in the decision making process presents an unacceptable risk to passengers, the Executive Director of Place be given delegated authority to suspend or revoke licences with immediate effect, in consultation with the Chair (or vice chair) of the Licensing Committee.

2. Financial Implications

2.1 Any decision, whether by Sub-Committee or officer can be appealed with the associated risk of costs to both parties

3. Well-being and Health Implications

3.1 Decisions to suspend or revoke a licence should consider the safety and wellbeing of the travelling public.

4. Climate implications

4.1 None

5. Other Implications

5.1 This is a critical tool for the Safeguarding of Children and Adults however there are also implications relating to the ability to carry out licensable activities for those licence holders affected.

6. Risk Assessment

6.1 Having considered the risks associated with this decision, the level of risk has been identified as:
Current Risk: Medium
Residual Risk: Medium

7. Equalities Impact Assessment

7.1 Not Applicable

8. Appendices

Appendix A – Dorset Council's Constitution Part 3 – Scheme of Delegation - Functions of the Council (Pages 194-197)

Appendix B – Suspension/Revocation Decision Process outline

9. Background Papers

Dorset Council Taxi Licensing Policy 2022

10. Background

- 10.1. The Council as a Licensing Authority has a duty under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to licence private hire and hackney vehicle drivers, vehicles and operators.
- 10.2. The powers to grant driver/operator licences are included in Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (The Act) and the Licensing Authority is required to ensure that an individual applying for a driver's/operator's licence, or applying for the renewal of such a licence, is a 'fit and proper' person to hold that licence.
- 10.3. Dorset Council's Constitution delegates all powers relating to the licensing of taxis to the Licensing Committee, which may be further delegated to a Licensing Sub-Committee or an officer (except for matters relating to determining proposed policy or fees). A copy of the relevant section of the constitution is attached at Appendix A (Part 3 – Scheme of Delegation - Functions of the Council Pages 194-197).
- 10.4. Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend, revoke or refuse to renew a hackney carriage / private hire driver's licence. This may be for the following reasons:
 - a) since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence; or
 - b) any other reasonable cause.

Under this Section the driver has 21 days to appeal against the decision to the Magistrates' Court and, during the appeal period, the licence holder can continue to drive hackney carriage / private hire vehicles.
- 10.5. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 enables a decision to suspend or revoke a hackney carriage / private hire driver's licence with immediate effect, should the Council believe it to be necessary in the interests of public safety. This means the driver cannot continue to drive hackney carriage / private hire vehicles during the appeal period.
- 10.6. An immediate revocation under Section 61 (2B) may take place when licensing officers have been made aware of information concerning a driver which indicates they are no longer fit and proper. In this situation the decision to suspend or revoke must be made relatively quickly and a full investigation may not be possible until after the suspension or revocation. In this situation further evidence may come to light which either substantiates the initial decision to suspend or revoke the licence or alternatively, exonerates the driver and indicates they are fit and proper to hold a licence. A licence holder will always be given an opportunity to respond to any allegations prior to a decision being made.

- 10.7. In this scenario, and when a driver is once again adjudged to be fit and proper, a procedure must be in place that allows them to regain the licence as quickly as possible and with minimal fuss. It would be unfair for the driver to have to re-apply for a new licence in line with the current policy as this would imply they have to pay an application fee and supply a new DBS form, medical etc.
- 10.8. To assist the Licensing Committee examples of situations where immediate suspension or revocation might be warranted are listed below. It should be noted that this list is not exhaustive but as relevant examples as to the likely use of the delegated authority: -
- (a) Allegations of violence against a passenger or person wishing to travel;
 - (b) Allegations of indecency, including sexual assault and rape, against a passenger or person wishing to travel;
 - (c) Allegations that the driver is unfit to drive as a result of being under the influence of drugs or alcohol;
 - (d) Admitted sexual contact with a passenger in the vehicle;
 - (e) An immediate suspension may take place when a driver no longer meets Group 2 medical standards. In these circumstances the suspension could have effect until the driver could provide evidence to show they were 'fit' to the required standard.
- 10.9. The amendment to the Scheme of Delegation is designed to enable the Council to make urgent decisions to suspend or revoke (likely to be revocation) with immediate effect, in order to protect the public, which are complaint with relevant case law e.g. *Singh* and *Reigate and Banstead v Pawlowski*. Whilst it would be possible to convene a Licensing Sub-Committee at short notice to consider revoking a driver licence with immediate effect this could take a number of weeks in practice, from receipt of the allegation through to investigation (reports need to be a written and the agenda must be published five clear working days in advance). There is also the issue of availability of Chair and Vice-Chair which might cause additional delay. The public might be put at risk if the driver was continuing to exercise use of his/her taxi driver licences. Revocation is a significant step and it is expected that this power will be used sparingly. The decision must still be taken in consultation with the Chair or Vice-Chair of Licensing which means that member scrutiny of the exercising of this power is preserved.
- 10.10. In order to maintain the opportunity for the licence holder to have a fair hearing they will be offered the opportunity of making representations before the Executive Director of Place prior to a decision being taken. In some instances the driver may be in police custody however a representative of his/her may make representations in person or in writing.
- 10.11. it is expected that the Executive Director of Place will nominate the Service Manager for Licensing and Community Safety to exercise the delegation on his behalf.

11. Relevant Case Law & Guidance

- 11.1. On 21 July 2020, the Department of Transport issued new standards to improve safety for taxi and private hire vehicle passengers. Paragraph 5.11 states “...**all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence**. It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.” This reinforces that the Council’s proposed scheme of delegation is in line with government guidance and best practice.
- 11.2. The case of *R. (on the application of Singh) v Cardiff City Council [2012]* suggested that the practice of using suspension of a taxi driver licence on an interim basis and then revoking at a later date should not be followed. Instead a “once and for all” decision should be made. The driver licence should either be suspended or revoked but not suspended with a view to a possible later revocation in the light of further developments. This was because suspension was, according to the Judge not a protective or holding power but a power of final suspension as an alternative to a power of final revocation. There is an ongoing debate about whether *Singh* was generally applicable or peculiar to its own facts but many Licensing Authorities follow the principle of a single decision at the point in time of the allegation being made known.

Typically the “once and for all” decision is revocation with immediate effect (i.e. so the driver could not drive a taxi even having lodged an appeal). The revocation would be authorised by a senior officer under delegated powers as the risk to the public would mean that the time delay in arranging a committee of elected members even at short notice might put public safety at risk. The driver would still enjoy rights of appeal to the Magistrates’ Court against the revocation.

- 11.3. In a more recent case (13 July 2017) Reigate and Banstead Borough Council sought the definitive view of the High Court on this issue. The Judge in *Reigate and Banstead Borough Council v Pawlowski [2017]* made it clear that suspension is a sanction which is an alternative to revocation and not an interim step pending a further decision. A synopsis of the case for members’ attention is included below

“...a local authority could not lawfully suspend by reason of criminal charge on a “wait and see” basis.....Once it was seen that suspension was not a holding operation but a substantive decision, it became apparent that suspension would rarely be the appropriate course where a driver was charged with a matter for which, if convicted, he would be subject to revocation of his licence. If such a charge merited action, and if the action was not by way of an interim measure pending determination of the facts at criminal trial, revocation would generally be the appropriate course. To suspend a licence because an allegation was made and then revoke it because the allegation was proved was contrary to the decision in *Singh*....Further, if it should later transpire, for example by reason of acquittal at trial, that the former licence holder was indeed a fit and proper person to hold a licence, provision could be made for expeditious relicensing, *Singh* considered”

- 11.4. The Judge in *Reigate and Banstead v Pawlowski* referred to the scenario where a Council revokes the licence of a taxi driver accused of something serious who is subsequently exonerated. He said in that case there should be “expeditious re-

licensing". As the licence will have been revoked it cannot in the normal course of events be quickly restored. There is the application fee for the grant of the licence, and other processes as applicable e.g. medical fitness and/or Disclosure and Barring Service Checks. These take time especially as the involvement of third parties may be involved. Clearly if a driver is exonerated in the criminal process or the complaint is found to be unsubstantiated it would be unfair if that driver whose licence was revoked was to suffer an undue delay in being relicensed, especially if he had recently renewed his licence prior to it being revoked with immediate effect.

- 11.5. The Committee may therefore wish to approve a fast track process for the relicensing of such drivers which will amount to the "expeditious relicensing" referred to by the Judge, in those cases where licensing officers consider that fresh checks are unnecessary in the circumstances because they have recently been carried out. The renewal fee will not be charged in such circumstances, however if a renewal is due in any event then it will proceed as normal with the full fee payable.
- 11.6. Should Members decide to establish such provision, the Licensing Team would seek to implement as soon as reasonably practicable.

Footnote:

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

Part 3 – Scheme of Delegation - Functions of the Council

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS		
	General matters relating to application of provisions	<p>(a) Where more than one body / person is identified in relation to any function then each may exercise the function independently from and without reference to any other body / person.</p> <p>(b) Where a function is given to a Committee or Board, then that Committee or Board may delegate that function to a Sub-Committee unless the law or the Articles – Part 1 of the Constitution provide otherwise.</p> <p>(c) Where a body/person is identified as having power to exercise a local choice function then such a body/person shall have that power in addition to any other power that may be identified as applicable to that person/body in any other part of the Constitution.</p>
No.	FUNCTION	DECISION MAKING BODY / DELEGATION OF FUNCTION
1.	Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	<p>(a) Leader; and</p> <p>(b) any other body or person as the Leader may provide for in executive arrangements.</p>
2.	The determination of an appeal against any decision made by or on behalf of the Council.	<p>(a) Appeals Committee; and</p> <p>(b) any Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution.</p>
3.	The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Non-Executive decision - Corporate Director – Legal and Democratic Services
4.	The making of arrangements pursuant to sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals)	Non-Executive decision - Corporate Director – Legal and Democratic Services
5.	The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies)	Non-Executive decision - Corporate Director – Legal and Democratic Services
6.	Any function relating to contaminated land	<p>Non-executive decision</p> <p>(a) Executive Director of Place; and</p>

		(b) any other Officer to such extent as may be provided in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
7.	The discharge of any function relating to the control of pollution or the management of air quality	Non-executive decision (a) Executive Director of Place; and (b) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
8.	The service of an abatement notice in respect of a statutory nuisance	Non-executive decision (a) Executive Director of Place; and (b) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
9.	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Non-executive decision (a) Executive Director of Place; and (b) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
10.	The inspection of the authority's area to detect any statutory nuisance	Non-executive decision (a) Executive Director of Place; and (b) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
11.	The investigation of any complaint as to the existence of a statutory nuisance	Non-executive decision (a) Executive Director of Place; and (b) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
12.	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Non-executive decision (a) Executive Director – Place; (b) Corporate Director – Legal and Democratic Services; and (c) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
13.	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Non-executive decision (a) Executive Director – Place; (b) Corporate Director – Legal and Democratic Services; and (c) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution

14.	The making of agreements for the execution of highways works	Non-executive decision (a) Executive Director – Place; (b) Corporate Director – Legal and Democratic Services; and (c) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
15.	The appointment of any individual— (a) to any office other than an office in which he is employed by the authority; (b) to any body other than— (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.	Non- executive decision (a) Full Council, and (b) any other Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution
16.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Non-executive Decision (a) Full Council; and (b) any Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution.
17.	Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within paragraph 1 of Schedule 2 Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Non-executive decision (a) Harbours Committee to the extent as provided for in its functions, (b) Full Council to such extent as it does not fall within the functions of the Harbours Committee; and (c) any Officer to such extent as may be provided for in the Officer Scheme of Delegations – Part 3(ii) of the Constitution.

No.	Power	Related Operational Requirements
	RESPONSIBILITY FOR EXECUTIVE FUNCTIONS	The discharge of executive functions is subject to various notification and call in provisions as set out in the Overview and Scrutiny Procedure Rules – Part 2 of the Constitution.
A.	LEADER	
1.	Power at any time to discharge any matter arising from any executive function, including in particular the following:	
	1. to determine and alter the arrangements for the discharge of any executive function;	The Leader will maintain a list setting out arrangements for the discharge of executive functions. This list will form part of the Constitution. Further details in relation to this can be found in

		Article 6 - The Executive– Part 1 of the Constitution. Executive functions delegated to Officers can also be found in the Officer Scheme of Delegations – Part 3(ii) of the Constitution.
	RESPONSIBILITY FOR COUNCIL FUNCTIONS (NON-EXECUTIVE)	
	General matters relating to application of provisions	<p>(a) The Officer Scheme of Delegations – Part 3(ii) contains details as to the extent that such functions have also been delegated to Officers.</p> <p>(b) The Proper Officer is responsible for maintaining an up to date list of various other arrangements relating to certain Council functions including in relation to Sub-Committees. Further information on this can be found in Article 8 - Committees and Boards – Part 1 of the Constitution.</p>
	Interpretation issues relating to functions	<p>(a) Where a function of a Committee or Board involves the making of a determination then the function shall be interpreted as including power to make any incidental and ancillary decision including on any procedural issue of relevance to that function.</p> <p>(b) References to a policy shall be deemed to include reference to a protocol, scheme, strategy and / or plan.</p> <p>(c) Unless the law or a requirement in the Articles – Part 1 of the Constitution provides otherwise any Committee or Board:</p> <p>(i) that can have a Sub-Committee can delegate and/or refer any of its powers to such a Sub-Committee; and</p> <p>(ii) Can delegate and/or refer any of its powers to an Officer.</p> <p>(d) Where more than one Committee, Board and/or an Officer has a delegated power or a power of recommendation then each may exercise that power independently from and without reference to any other body / person.</p> <p>(e) Where a determination will require financial expenditure then the Committee or Board should normally seek the agreement of the relevant budget holder prior to making any decision or if no such budget exists then with the Section 151 Officer.</p>

COMMITTEES AND BOARDS		FUNCTIONS			
No.			DELEGATIONS	No.	POWER TO RECOMMEND
1.	Appeals Committee	1.	<p>To determine any appeal and/or review against a decision made by or on behalf of the Council or for which the Council is required to provide arrangements for an appeal/review body that includes Members. However, this only applies in the following circumstances:</p> <p>(a) a right of appeal/review exists by virtue of legislative provision and/or an extant policy of the Council;</p> <p>(b) the appeal/review does not relate to a personnel issue concerning an employee of the Council; and /or</p> <p>(c) the appeal/review does not relate to a matter within the functions of the Strategic Planning Committee, Area Planning Committee, Licensing Committee and/or in respect of which the Constitution expressly provides should be dealt with elsewhere (excluding any provision in the Officer Scheme of Delegation).</p>		
		2.	<p>To determine:</p> <p>(a) any application for discharge from mental health guardianship;</p> <p>(b) any application / request for revocation relating to any parking concession concerning a disabled person where there is any suggestion of misuse; and</p> <p>(c) any financial assessment dispute relating to residential and/or nursing home accommodation being provided to a person where the Council is responsible for funding all or part of that person's care.</p>		

2.	Area Planning Committee	1.	Within the identified area of the Area Planning Committee, to exercise all powers of the Council directly or indirectly relating to the exercise of those functions set out in Part A of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (including the determination of any application (including any application for reserved matters and/or technical details consent) and/or enforcement issue). However, this does not include making a determination of any matter that in the opinion of the Executive Director -Place (and any other Officer as that Executive Director may nominate) falls within the remit of the Strategic Planning Committee.	A.	To make recommendations on any matter directly or indirectly relating to any highway wholly or partly within the area of the Area Planning Committee (including for the avoidance of doubt any order) for which an Area Planning Committee does not have the power to make a determination.
		2.	Within the identified area of the Area Planning Committee, to exercise all powers of the Council (including the determination of any application and/or enforcement issue) directly or indirectly relating to the exercise of those functions set out in Part 1 of Part I of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).		
		3.	Within the identified area of the Area Planning Committee, to exercise all powers of the Council not expressly reserved to Full Council identified in Part 2 of Part I of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) that concern any functions of the Council directly or indirectly relating to the following: (a) any tree; (b) any hedge; and/or (c) any hedgerow,		

			(including the making and/or confirming of any orders and the determination of any complaints).		
		4.	To determine any application and/or any other matter identified in: (a) any extant Town and Country Planning General Permitted Development Order; and/or (b) any extant Town and Country Planning General Management Procedure Order, that falls within the identified area of the Area Planning Committee. However, this does not include any matter that crosses the boundary of an Area Planning Committee.		
3.	Audit and Governance Committee	1.	To determine any response to the Annual Internal Report and opinion.	A.	In relation to Internal Audit, to make recommendations on: (a) its terms of reference; (b) the proposed and actual Internal Audit coverage and whether this provides adequate assurance on the main business risks; (c) cooperation arrangements between Internal Audit, External Audit and any other review bodies; and (d) whether there is sufficient funding to fulfil internal audit requirements including preparation of an Internal Audit Strategy.
		2.	To determine whether to accept (with or without modification) an annual report evaluating the adequacy of the application of the Council's Annual Governance Statement.	B.	In relation to External Audit to: (a) make recommendations on the proposed and actual External Audit coverage and its adequacy; (b) make recommendations arising from the External Auditor's report on the audit of the annual financial statements; and (c) receive updates from External Audit on External Audit findings, opinions and adequacy of management response to

					External Audit advice, recommendations and action plans and make recommendations in relation to them.
		3.	To determine whether to accept (with or without modification) the annual Statement of Accounts including any subsequent amendments.	C.	To make recommendations on the adequacy of arrangements for identifying and managing the Council's business risk including the Council's risk management policy and strategy and the implementation of both.
		4.	To determine any matter referred to it by or on behalf of the Monitoring Officer in relation to any complaint concerning an alleged breach of a Member Code of Conduct (including in relation to any parish or town council), Protocol for Member and Officer Relations and/or any other code or protocol relating to Members and/or co-opted persons including any appointed representatives of external bodies.	D.	To make recommendations on the robustness of the strategic risk register and the adequacy of associated risk management arrangements.
		5.	To determine whether to grant a dispensation to any Member, co-opted person including any appointed representatives of external bodies arising in relation to: (a) any code of conduct; (b) any provision of the Localism Act 2011; and/or (c) any conflict of interest.	E.	To review reports on the risk environment and associated management action and make recommendations in relation to them.
		6.	To determine procedures associated with the appointment of any independent remuneration panel.	F.	In relation to internal control arrangements to make recommendations on: (a) the Statement of Internal Control, including the procedures followed for its completion and supporting documentation; (b) the effectiveness of internal controls across the Council and the adequacy of action take to address any weaknesses;

					<p>(c) the Council's Anti-Fraud and Corruption Policy and Strategy and the effectiveness of its application; and</p> <p>(d) the adequacy of arrangements to deal with situations of suspected or actual fraud and corruption.</p>
				G.	In relation to Corporate Governance to make recommendations on the adequacy of the corporate governance strategy, any improvement action plan and any updates on improvement actions.
				H.	<p>To make recommendations on any matter arising from:</p> <p>(a) the audit of the Council's accounts, including any auditor's opinion on the accounts; and</p> <p>(b) any issues considered as part of any powers for which the Audit and Governance Committee have delegated power.</p>
				I.	To make recommendations on any findings / reports produced by the Local Government Ombudsman including in relation to any compensation payment.
				J.	<p>To make recommendations on:</p> <p>(a) the operation of the Members' Code of Conduct;</p> <p>(b) the promotion and maintenance of high standards of conduct by Members and co-opted persons;</p> <p>(c) any consultations relating to principles of conduct;</p> <p>(d) any code of practice relating to Members appointment to an external body; and</p> <p>(e) general advice to Members and co-opted persons regarding disclosure of interests and granting dispensations.</p>

4.	Harbours Committee	1.	<p>To exercise all functions of the Council as a harbour authority that relate to any matter concerning issues of administration, harbour operations and/or the management of Lyme Regis, Bridport and Weymouth harbours and associated harbour land (the terms “harbour authority” and “harbour land” all being as defined in section 57 Harbours Act 1964). This power includes power to determine income and expenditure matters relating to the harbours and harbour land in respect of which the Harbours Committee has functions. However:</p> <p>(a) in the case of income, only in relation to such matters as Full Council has expressly resolved may be determined by the Harbours Committee; and</p> <p>(b) in the case of expenditure, only to the extent that such expenditure is within such budget as may be allocated to the Harbours Committee.</p>		
5.	Health and Wellbeing Board	1.	<p>To formulate, approve (with or without modification), implement and review as necessary:</p> <p>(a) the joint strategic needs assessment;</p> <p>(b) all joint health and wellbeing strategies;</p> <p>(c) any pharmaceutical needs assessment; and</p> <p>(d) the Better Care Fund.</p>	A.	<p>To make recommendations in relation to any plan, strategy and/or policy that has health and /or wellbeing implications adopted for the whole or any part of the Council’s area including any:</p> <p>(a) Clinical Commissioning Group strategy;</p> <p>(b) local transformation plan relating to children and young people’s mental health and wellbeing; and</p> <p>(c) prevention at scale and integrated community services / primary care elements of the Sustainability and Transformation Plan.</p>
		2.	<p>To provide advice, assistance and such other support as the Health and Wellbeing Board considers appropriate to encourage the making of arrangements in connection</p>	B. C.	<p>To make recommendations on outcome and investment priorities for any groups that report to the Health and Wellbeing Board.</p> <p>To make recommendations to encourage</p>

			with the provision of services between such health bodies as identified in any relevant legislation.		improved integrated working between health and social care commissioners and any others providing and/or responsible for health related services in the Council area including the Health and Wellbeing Board. D. To make recommendations on ways to ensure that patient / service user voice, including any hard to reach groups, is intrinsic to the commissioning cycle and any commissioning decisions. E. To make recommendations on how to tackle health inequalities in Dorset. F. To make recommendations if and when required as to how the Council and other relevant health bodies can better meet their obligations to have regard to any joint needs assessment or health and wellbeing strategy produced by the Health and Wellbeing Board.
6.	Licensing Committee	1.	To exercise all powers of the Council not expressly reserved to Full Council directly or indirectly relating to the exercise of those functions set out in Part B of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) including (for the avoidance of doubt) the determination of any application, suspension or revocation. However, this does not include the exercise of any powers for the purpose of: (a) any matter relating to the registration of common land including the variation of rights of common; (b) any matter relating to the registration of any town or village green; and/or (c) a determination as to whether or not to adopt a policy forming part of the Policy Framework as identified in Article 4 –	A.	To make recommendations on any policy matter relating to any function delegated to the Licensing Committee but for which the Licensing Committee does not have a power of determination.

			Full Council – Part 1 of the Constitution.		
		2.	To exercise all powers of the Council that are non-executive arising pursuant to the Licensing Act 2003. However, this does not include a determination as to whether or not to adopt a policy forming part of the Policy Framework as identified in Article 4 – Full Council – Part 1 of the Constitution.		
		3.	To exercise all powers of the Council that are non-executive arising pursuant to the Gambling Act 2005. However, this does not include a determination as to whether or not to adopt a policy forming part of the Policy Framework as identified in Article 4 – Full Council – Part 1 of the Constitution.		
		4.	To determine any matter relating to any function of the Council referred to the Licensing Committee for determination but which is not itself a licensing function (as defined by the Licensing Act 2003).		
		5.	To exercise all non-executive functions of the Council arising in relation to the licensing (including for the avoidance of doubt the determination of any application) and enforcement of the manufacture and/or storage of explosives.		
	Licensing Sub-Committee	6.	With the exceptions of determining proposed policy and determining any fee payable, power to determine any application or any other matter arising pursuant to: (i) the Licensing Act 2003; and /or (ii) the Gambling Act 2005, that the Licensing Committee has power to determine and which can be lawfully delegated to a Sub-Committee, including: (a) the holding and determination of any hearing arising as a consequence of		

			<p>any application or other matter pursuant to the Licensing Act 2003 or the Gambling Act 2005;</p> <p>(b) the determination as to whether a hearing needs to be held;</p> <p>(c) the determination as to whether a representation is a relevant representation;</p> <p>(d) power to determine any action in relation to any actual or alleged breach of any legislative provision relating to such functions; and</p> <p>(e) the determination of the appropriate procedure to follow in relation to the determination of any matter, provided that regard is had to any procedure that may have been adopted by the Licensing Committee.</p>		
		7.	<p>With the exceptions of determining proposed policy and determining any fees payable, power to determine any application or other matter arising in relation to the private hire and hackney carriage and functions of the Council that the Licensing Committee has power to determine and which can be lawfully delegated to a Sub-Committee, including:</p> <p>(a) any driver, vehicle, operator or proprietor licence;</p> <p>(b) power to determine any action in relation to any actual or alleged breach of any legislative provision relating to such functions including in particular whether to suspend or revoke any licence and any issue relating to any such suspension or revocation; and</p>		

			(c) any application for a private hire plate exemption.		
7.	Overview and Scrutiny Committees	1.	Except for the Health Overview and Scrutiny Committee each Overview and Scrutiny Committee can exercise all delegated functions given to an Overview and Scrutiny Committee by any legislation, including in particular those identified in Chapter 2 Local Government Act 2000. However, only the Overview and Scrutiny Committee with primary responsibility for place shall exercise such powers in relation to any education functions (which for the purposes of this article shall mean as defined in section 579 (1) of the Education Act 1996) exercisable by the Executive. Certain Overview and Scrutiny Committees may also be able to exercise additional powers (if any) to the extent identified in this section of Part 3 of the Constitution.	A.	Except for the Health Overview and Scrutiny Committee e ach Overview and Scrutiny Committee can exercise all powers of recommendation given to an Overview and Scrutiny Committee by any legislation, including in particular those identified in Chapter 2 Local Government Act 2000. However, only the Overview and Scrutiny Committee with primary responsibility for people shall exercise such powers in relation to any education functions (which for the purposes of this article shall mean as defined in section 579 (1) of the Education Act 1996) exercisable by the Executive. Certain Overview and Scrutiny Committees may also be able to exercise additional powers (if any) to the extent identified in this section of Part 3 of the Constitution.
		2.	The Overview and Scrutiny Committee with primary responsibility for place shall be the Council's Crime and Disorder Committee can exercise any additional delegated functions of a Crime and Disorder Committee provided for in any legislation including the Police and Justice Act 2006 and its relevant regulations.	B.	The Overview and Scrutiny Committee with primary responsibility for place shall be the Council's Crime and Disorder Committee and can exercise any additional powers of recommendation available to a Crime and Disorder Committee provided for in the Police and Justice Act 2006 and its relevant regulations.
		3.	The Overview and Scrutiny Committee with primary responsibility for health can exercise any additional delegated powers relating to the review and scrutiny of the planning, provision and operation of the health service in the area of Council given to an Overview and Scrutiny Committee appointed for this purpose by the National Health Service Act 2006 and its relevant regulations.	C.	The Overview and Scrutiny Committee with primary responsibility for health can exercise any additional powers of recommendation relating to the review and scrutiny of the planning, provision and operation of the health service in the area of Council given to an Overview and Scrutiny Committee appointed for this purpose by the National Health Service Act 2006 and its relevant regulations.

8.	Pension Fund Committee	1.	To exercise all powers of the Council that relate to any pension scheme for which the Council is the administering authority, including for the avoidance of doubt all powers directly or indirectly relating to the exercise of those functions set out in Part H of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)		
9.	Staffing Committee	1.	To determine the appointment of any Officer post as may be provided for in accordance with any relevant policy of the Council.		
		2.	To determine the appointment process and recommend an appointee for the posts of Head of Paid Service, Monitoring Officer and Section 151 Officer.		
		3.	To determine: (a) any actual or potential disciplinary and/or dismissal process relating to the Head of Paid Service, Section 151 Officer, Monitoring Officer; (b) any actual or potential disciplinary and/or dismissal process relating to such other Officers as may be identified in any relevant policy of the Council as being for determination by a Committee; and (c) any disciplinary matter relating to an Officer and/or whether an Officer should be dismissed but only to such extent as the law allows and is provided for in any relevant policy of the Council.		
		4.	To determine any appeal against a decision relating to the cessation of employment of any Officer where such an appeal is required to be undertaken by a Committee in any relevant policy of the Council.		

		5	<p>To determine any issue arising in relation to any potential or actual cessation of employment of any Officer including:</p> <p>(A) whether an Officer post should be regarded as redundant, no longer required in the interests of the efficient exercise of the Council's functions or otherwise;</p> <p>(B) whether to agree to any request for voluntary redundancy;</p> <p>(C) whether to grant, and the amount of, any discretionary compensation, additional pension or any other discretionary payment that may be available; and</p> <p>(D) the terms of any agreement relating to any cessation of employment.</p>		
10.	Strategic Planning Committee	1.	<p>To exercise all powers of the Council directly or indirectly relating to the exercise of those functions set out in Part A of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (including the determination of any application (including any reserved matters application and/or an application for technical details consent) and/or enforcement issue) of relevance to the following:</p> <p>(a) any matter involving energy production:</p> <p>(i) exceeding 5MW energy generation capacity; and/or</p> <p>(ii) with a site area exceeding 10 hectares;</p> <p>(b) any matter that crosses the boundaries applicable to any Planning Area Committee;</p>		

			<p>(c) any matter involving highway infrastructure that in the opinion of the Executive Director - Place (and any other Officer as that Executive Director may nominate) is primarily concerned with improving / changing the strategic highway infrastructure network; and/or</p> <p>(d) any matter that in the opinion of the Executive Director - Place (and any other Officer as that Executive Director may nominate) primarily relates to minerals and/or waste.</p>		
		2.	<p>To exercise all powers of the Council not expressly reserved to Full Council directly or indirectly relating to the exercise of those functions set out in Part B of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) of relevance to the following:</p> <p>(a) the registration of common land including the variation of rights of common; and/or</p> <p>(b) the registration of any town or village green.</p>		
		3.	<p>To exercise all powers of the Council not expressly reserved to Full Council directly or indirectly relating to the exercise of those functions set out in Part I of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) of relevance to the protection of common land and/or any town or village green (whether registered or unclaimed) including for the avoidance of doubt the authorising of any enforcement action and/or proceedings.</p>		

		4.	To determine any matter directly or indirectly relating to any register that the Council is required to compile and/or maintain in connection with any of its town and country planning functions.		
		6.	Power to: (a) make, amend, revoke and/or re-enact any byelaw relating to any street; and /or (b) to determine whether to take any enforcement action including any proceedings relating to any such byelaw.		

Appendix B

Suspension/Revocation Process

Any decision to suspend or revoke a licence must be made in consultation with the Executive Director of Place (or proper nominated officer) and Chair or Vice-Chair of Licensing Committee as per the scheme of officer delegation. A suspension or revocation is subject to appeal at Magistrates Court; therefore, such decisions must be considered fully before being imposed.

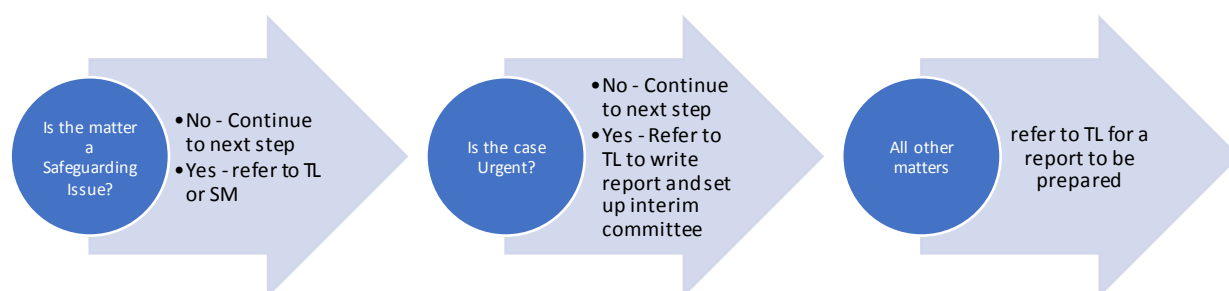
Most suspensions would not take effect immediately as there is an automatic right to continue to drive for 21 days, as stated in the legislation.

The case of Cardiff v Singh has stopped the usual practice of many authorities of suspending with immediate effect to investigate and then take to Committee for a revocation. Leading Legal specialists state that it is an either-or decision to suspend or a decision to revoke, it cannot be one followed by the other over the same incident/investigation.

Under most circumstances the most appropriate route is for matters that may result in a suspension to go to the monthly Licensing Committee with officer recommendations.

If decisions need to be made more quickly it is open to officers to call a separate committee in between scheduled meetings. The Minimum is with 5-day notice.

In exceptional circumstances there may be a need to take immediate action, mainly limited to safeguarding issues. In these circumstances the licence holder should still be given the option to be heard. Counsel advises this should be on the same day. If the decision is that the licence holder is no longer fit and proper the correct course of action is to revoke with immediate effect. Any investigatory evidence would then be gathered in the event of an appeal.



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