

A G E N D A

Regulatory Committee

Date: **Tuesday, 12th April, 2005**

Time: **2.00 p.m.**

Place: **The Council Chamber, Town Hall,
Hereford**

Notes: Please note the **time, date** and **venue** of
the meeting.

For any further information please contact:

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**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Regulatory Committee

To: Councillor R.I. Matthews (Chairman)
 Councillor Brig. P. Jones CBE (Vice-Chairman)

Councillors Mrs. S.P.A. Daniels, G.W. Davis, D.J. Fleet, J.W. Hope MBE,
 T.W. Hunt, G. Lucas, J.W. Newman, R. Preece, D.C. Taylor and P.G. Turpin

	Pages
1. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
4. MINUTES	1 - 6
To approve and sign the Minutes of the meeting held on 15th March, 2005.	
5. PROCEDURAL ARRANGEMENTS	7 - 8
To note the procedural arrangements for the meeting.	
6. REPORT TO CONSIDER HEREFORDSHIRE COUNCIL'S POLICY ON SEX ESTABLISHMENTS	9 - 14
To consider the Council's policy on issuing licences to Sex Establishments in Herefordshire.	
EXCLUSION OF THE PUBLIC AND PRESS	
In the opinion of the Proper Officer, the following item will not be, or is likely not to be, open to the public and press at the time it is considered.	
RECOMMENDATION:	that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below

7. **APPLICATION FOR DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976** | 15 - 22

To consider an application for a dual licence and Hackney carriage/private hire vehicle licence.

This item discloses information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.

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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

MINUTES of the meeting of Regulatory Committee held at Committee Room 1, Town Hall, Hereford on Tuesday, 15th March, 2005 at 2.00 p.m.

Present: Councillor R.I. Matthews (Chairman)
Councillor Brig. P. Jones CBE (Vice Chairman)

Councillors: G.W. Davis, D.J. Fleet, J.W. Hope MBE, T.W. Hunt,
G. Lucas, J.W. Newman, R. Preece, D.C. Taylor and P.G. Turpin

51. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Mrs. S.P.A Daniels and P.E. Harling.

52. NAMED SUBSTITUTES (IF ANY)

There were no substitutions made.

53. DECLARATIONS OF INTEREST

There were no declarations of interest made.

54. MINUTES

RESOLVED: That the Minutes of the meeting held on 1st March, 2005 be approved as a correct record and signed by the Chairman subject to the following amendment.

Minute 50 – Replace ‘The Committee agreed that the fee should be set at £3200 with renewal of £1500’ with ‘The Committee agreed that the fee should be set at £1500 with renewal of £1500’

55. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for hearing appeals to ensure that the laws of natural justice were followed to give a fair hearing for applicants and to the Licensing Officers.

EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED: that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below.

The following two items disclose information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.

56. APPLICATION FOR DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
(Pages 1 - 2)

The Licensing Manager presented a report about an application for a dual hackney carriage and private hire driver's license. The applicant was given the opportunity to address the Committee in respect of his application.

Having considered all the facts put forward by the Licensing Manager and the applicant, the Committee decided that the application should be approved.

57. APPLICATION FOR DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
(Pages 3 - 4)

The Licensing Manager presented a report about an application for a dual hackney carriage and private hire driver's license. She explained issues relating to the requirement to disclose any criminal convictions and police cautions. The applicant was given the opportunity to address the Committee in respect of his application.

Having considered all the facts put forward by the Licensing Manager and the applicant, the Committee decided that the application should be approved.

The meeting ended at 2.34 p.m.

CHAIRMAN

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REGULATORY COMMITTEE
LICENSING APPEAL PROCEDURE

1. Introduction by Clerk to the Panel.
2. Licensing Officer outlines the case.
3. Applicant (or his solicitor) sets out his case.
4. Questions asked by the Panel or Licensing Officer or Applicant.
5. Applicant (or his solicitor) asked if he would like to make further comment or representation, or if he requires time to comment or investigate (if so, Chairman defers application).
6. In dealing with each application, the applicant (and any representative) should also withdraw should be asked to withdraw when they have finished their presentation. All officers, other than the Clerk to the Panel, should also withdraw. It would be preferable for the applicant and officers to await the decision at different locations.
7. If either the applicant or the officer are needed to furnish additional information, they should all be invited back before the Panel. When the additional information has been furnished, they should all be asked to leave again.
8. The Panel can then reach a decision in the usual way, but in the absence of parties.
9. The applicant and officers will then be invited to return. The Chairman will announce the decision. The Chairman should also say that the decision will be communicated in writing in due course, and that the applicant will be informed of any right of appeal (if the decision is a refusal).
10. When the first applicant is finished, that applicant should leave. Deal with the second application the same way.

6 REPORT TO CONSIDER HEREFORDSHIRE COUNCIL'S POLICY ON SEX ESTABLISHMENTS

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 SCHEDULE 2 AND SCHEDULE 3 CONTROL OF SEX ESTABLISHMENTS

Report By: Head of Environmental Health and Trading Standards

Wards Affected:

County-wide

Purpose

1. To consider the Council's policy on issuing licences to Sex Establishments in Herefordshire.

Legislation

2. The Local Government Act (Miscellaneous Provisions) Act 1982 Schedule 2 and Schedule set out the controls for Sex Establishments

The Act defines the meaning of Sex Establishments and allows the Authority to make regulations stipulating conditions of Licence for premises opening as a Sex Establishment.

The Legislation would only require a shop to have a sex establishment licence if the business consists of a "significant degree" of the sale, exchange, lending, displaying or demonstrating sex articles or other articles intended for use in connection with or for stimulating or encouraging sexual activity.

The local authority may grant or renew or transfer a licence or refuse an application for a licence.

The Act allows for the Authority to decide nil is an appropriate number. (Section 12(4)).

If the Authority did allow Sex Establishments they would, when determining whether to grant or renew a licence under the Act, have regard to:

- Fitness of a person to hold a licence on each application
- The character of the relevant locality or
- To the use to which any premises in the vicinity are put or

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

Appeals

3. The applicant may appeal to a Magistrates Court when an application is refused on the grounds:

- The person or body corporate is not suitable.
- Application for variation of the term condition ;or restriction is refused.
- If the licence has been revoked.

However the applicant does not have any right of appeal where the licence has been refused on the grounds that:

- The number of Sex Establishments exceeds the number which the Authority considers appropriate or
- The location, premises in the vicinity or layout etc. are inappropriate.

4. The Local Authority may refuse a licence to a person or body corporate because they do not fit the criteria laid down in the Act.

However they may refuse to licence on the grounds:

That the number of Sex Establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Authority considers appropriate for the locality. (Section 12(3)(c)).

Background

5. On 11th December, 2001 the Regulatory Committee decided a nil policy for Sex Establishments in Herefordshire therefore the County of Herefordshire District Council to date has not licensed any sex establishments within the County.
6. One application has been received from Mr. M.J. Bushell a Director of an Adult Business. The main part of their business would be selling restricted 18 videos and would require a sex establishment licence.
7. Another firm has also made enquiries but no formal application has been made.
8. Since 11th December, 2001, when the nil policy was decided a number of shops have opened in Hereford selling goods of an adult sexual nature. These shops do not require licences because they do not supply restricted 18 videos and it is considered the goods sold that are intended to stimulating or encouraging sexual activity do not amount to a "significant degree" of the sale of goods from those premises. However this position is under constant review and if they are considered to be of a significant degree those premises will be advised accordingly.

9. Comparison table of other authority's sex establishment fees and policy, however through our enquiries it was clear there is some confusion from other local authorities whether these sections of the act have been adopted or not.

Authority	Policy
Swindon	Not adopted
Worcester	One licence issued
Gloucester	3 on outskirts
Cheltenham	No applications received
Monmouthshire	Not adopted

10. Public notice was placed in the Hereford times on the 17th and 24th February, 2005 from which the licensing section received 13 responses. Copies of the letters and a summary are attached in schedule 1.

Options

11. It is for the Regulatory committee sitting to decide:-
- Whether nil is an appropriate number of sex establishments in the County of Herefordshire District Council; or
 - Whether they allow the Head of Environmental Health and Trading Standards to decide the number and appropriateness of sex establishments within the County of Herefordshire District Council thus allowing the Regulatory Committee to hear appeals of any refused licences or renewals; or
 - Whether to grant the application to allow sex shop to operate in Herefordshire; or
 - Whether they want to set a limit as to how many; or
 - Come to some other conclusion

Schedule 1.

Summary of responses

Objector(s)	Brief Outline Comments Contained in the Letter	Date of letter
Hereford HR1 2TQ	<ul style="list-style-type: none"> -Council was right to make no provision for sex shops -Policy should not be overturned 	9th Feb, 2005
Hereford HR1 2ST	<ul style="list-style-type: none"> -Fully support the Councils position on 'nil' policy -Already enough shops selling sexual items -Do not want the influences of city life to spoil our precious heritage -Implore the Council to prevent the decline of the City into an immoral, 'anything goes' retail park 	19th Feb, 2005
Fownhope Hereford HR1 4PN	<ul style="list-style-type: none"> -Objection to a fully licensed sex shop -Already have a reputation of being the binge-drinking centre of the midlands-do we want to attract an even worse reputation? 	22nd Feb, 2005
Eaton Bishop Hereford HR2 9QX	<ul style="list-style-type: none"> -Strong opposition -Trusts the council will continue with the nil policy now and in the future -Such a shop would lower the standard of the shopping centre -It would encourage people (especially young people) to experiment in practices encouraged in these establishments which are both evil and often dangerous and destructive to moral society 	23rd Feb, 2005
Belmont Hereford HR2 7ZP	<ul style="list-style-type: none"> -These shops debase sex which is a gift from god -Danger of encouraging unwanted sexual advances or even attack on an innocent party -Such shops present an unhealthy attitude towards sex -There is an above average of retired people in Herefordshire. Many of whom would find a sex shop offensive -Tourists would not be surprised to find a sex shop in Soho, they might be offended to find one in Hereford 	3rd March, 2005
Hereford HR1 1NA	<ul style="list-style-type: none"> -Please uphold the nil policy -Hereford has always been looked on as a county town of quality. -We need to further and uphold decent family values in Hereford to draw a good balance of tourist to the city 	2nd March, 2005

Brinsop Hereford HR4 7AX	-Town already has 2 similar venues. Another such similar venue would only add to the negative characteristics of the town -Hereford town possesses a certain cultural, genteel, historical and architecturally interesting atmosphere....Will visitors and inhabitants want soft or hard porn shops.	7th March, 2005
Kington HR5 3NT	-Please do not change current nil policy -To allow an establishment such as this to operate would put our young people at grave risk -I fervently ask that the council refuse this and any such applications in the future	8th March, 2005
Hereford HR4 9JR	-Believes a sex shop will cause further degradation to the youth into further undesirable/unnecessary interests or activities inappropriate for their age -Appreciate the nil tolerance policy of the Council and would dearly love to see this continue	11th March, 2005
Withington HR4 3PX	-Opposition to Sex Establishment on the grounds of morality -There is enough of this sort of thing around and not in the interests of decent people of Hereford	8th March, 2005
Leominster Herefordshire HR6 8SA	-Strongly voice my objection to the application and would ask that it is rejected. -I have 5 children and feel there is too much soft porn on display in newsagents, television and internet access	22nd March, 2005
Leominster Herefordshire HR6 8SA	-Deeply upset that there has been an application for a sex shop -There is no possible way that this can be seen as doing the people of Herefordshire or our image as a friendly and untouched county any good	24th March, 2005
Hereford HR1	-Concerned you might be considering the above application. -Concerned for own children and those he teaches -A sex shop in town sends out all wrong messages -As councillors you have one small opportunity to make some sort of stand on this by rejecting this and any other similar applications. -It would negate so many of the improvements you are working hard to achieve in our city	31st March, 2005

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