



# **Sex Establishment Licensing Policy**

**April 2021**





## SEX ESTABLISHMENT LICENSING

### Introduction

1. Stockton-on-Tees Borough Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) (the "Act") so that the Council can licence sex shops, sex cinemas, and sexual entertainment venues in the Borough. Which are referred to as "sex establishments" unless stated otherwise.
2. The Council do not take a moral stand in adopting this policy and recognise that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is the role of a licensing authority to administer the licensing regime in accordance with the law.
3. The 1982 Act and the 2009 Act can be viewed at [www.legislation.gov.uk/](http://www.legislation.gov.uk/)
4. In developing this policy, we took into account the legal requirements of the 1982 Act and our duties under:
  - (a) section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
  - (b) the Government's Regulators Code, not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
  - (c) the Provision of Services Regulations 2009 to ensure requirements are:
    - (i) non-discriminatory
    - (ii) justified by an overriding reason relating to the public interest
    - (iii) proportionate to that public interest objective
    - (iv) clear and unambiguous
    - (v) objective
    - (vi) made public in advance, and
    - (vii) transparent and accessible.
  - (d) The European Convention on Human Rights Article 1, Protocol 1 (protection of property) and Article 10 (right to freedom of expression).

### The Borough Of Stockton-On-Tees

5. The Borough of Stockton-on-Tees is one of five councils in the Tees Valley district – a mixture of busy town centres, urban residential areas and villages whilst maintaining a strong industrial presence. The population is around 200,000. The main urban areas are Stockton, Thornaby, Ingleby Barwick, Billingham and Yarm.
6. Potential operators should refer to the Councils Plans and accompanying documents on our website at [www.stockton.gov.uk/our-council/our-plans/](http://www.stockton.gov.uk/our-council/our-plans/) for details about the local planning authority's approach to granting planning permission for developments where such activities may take place.
7. As of the 1 December 2020, the Council has no licensed sex establishments under the 1982 Act.

## The Policy

8. There are a number of terms that are used in the Act which have a specific meaning as defined in the Act, or which are open to interpretation, and this policy seeks to set out the interpretation that will generally be applied by this Council.
9. “*Sex shops*” are defined in the Act 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 connection with or for the purpose of stimulating or encouraging sexual activity.
10. “*Sex cinemas*” are defined in the Act as any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.
11. “*Sexual entertainment venues*” are defined in the Act as any premises, vehicle, vessel or stall at which relevant entertainment is provided before a live audience (which can be only one person) for the financial gain of the organiser or the entertainer. It is important to note that the definition of ‘premises’ does not include a private dwelling to which the public are not admitted. ‘Relevant entertainment’ is any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience. ‘Displays of nudity’ are displays of a person’s pubic area, genitals or anus, and in the case of women, nipples also.
12. The term ‘*significant degree*’ is used in respect of sex shops and sex cinemas and is not defined in the Act. Although there has been some case law regarding the meaning of this term, there is no rule of thumb that can be applied when determining whether the sale of articles etc. constitutes a significant degree of the business in question. It is clear from the relevant case law that the ratio between sexual and other aspects of the business will always be material, as will the absolute quantity of sales, movies shown etc. It is the policy of this Council that when determining whether licensable activities constitute a significant degree of the business, it will have regard to character of the remainder of the business, the nature of the display and the nature of the articles, films, etc.
13. Whilst the term ‘*significant degree*’ is not used in relation to sexual entertainment venues, the principle has in fact been established within the Act as premises that have relevant entertainment less frequently than once a month are excluded from the definition of ‘sexual entertainment venues’.
14. It should also be noted that only licensed sex shops can sell or supply DVDs and other recordings that are certified ‘R18’, and it is an offence under The Video Recordings Act 1984 to do so without a licence.
15. This policy sets out guidelines for licensing these types of premises in this Councils area. The objectives of this policy are to:
  - Enable applicants, licensees and interested parties to understand the principles that will be applied by the Council when regulating such premises;
  - To establish the general principles that will be applied by the Council in its regulatory activities; and
  - To assist in applying the national legislation within the context of the borough as a whole and within the wards that make up the borough.

16. The overriding objective of this policy is to ensure that premises licensed by this Council under this legislation do not contribute directly or indirectly to crime, disorder or harm to individuals or groups within the community; whilst seeking also not to be unduly restrictive of the rights of persons seeking to operate well run premises in appropriate locations. It will be the intention of the Council to consider each application on its own merits, and to act in a fair and proportionate way to achieve this objective.
17. The Council in carrying out its functions in accordance with this policy seeks to achieve control of sex establishments within the terms of the Act. Terms and conditions will focus on achieving the objectives stated above with reference to:
  - Matters within the control of individual licensees
  - The specific premises and/or the places used for the business
  - The vicinity of those premises and places
  - The direct impact of the activity taking place at the licensed premises on the normal activity of the public who live and work in the area concerned
18. This policy should be read in conjunction with the Act itself and any Home Office guidance issued from time to time.
19. This policy does not in any way fetter the discretion of the Council and each application will be considered on its individual merits. The main consideration when determining matters under this policy is whether to apply the policy as set out or whether there is good reason, having regard to all relevant matters and disregarding all irrelevant matters, to depart from the policy.

### **Implementation And Review**

20. The revised policy will take effect from (date to be confirmed following report to Cabinet March 2021)
21. The Council will keep this policy under review and will consult where appropriate on proposed revisions. A full review of the policy will be conducted every five years from the date of effect above.
22. From the effective date this policy will override and supersede all existing policies in relation to sex establishments.
23. The Council may monitor and review this policy or areas of the policy prior to the five year review period when considered necessary.
24. Subsequent to the introduction of the revised policy, the Council may make decisions, which change the content of this policy. The changes may have immediate effect or expressed as coming into effect on a given date. This policy document will be updated to reflect these changes. Copies of this policy will be available on the Councils website.

### **Integration With Other Statutes**

25. Certain premises licensed under The Licensing Act 2003 may already be providing regulated entertainment that will also require them to obtain a sexual entertainment venue licence.
26. There are exemptions in the Act when the regulated entertainment is provided on fewer occasions, less frequently or for a shorter period of time than is required to trigger the requirement for a sexual entertainment venue licence. Licensees may also request the Council to waiver the requirement for a licence, which is discussed further below.

27. Where premises are required to be licensed as sexual entertainment venues, it will not be necessary to also have a licence under the Licensing Act 2003 to permit the entertainment. However, if other activities licensable under the Licensing Act 2003 (e.g. the sale of alcohol) are to be permitted at the premises then it will still be necessary to obtain a premise licence, club certificate or temporary event notice to authorise those activities.
28. Premises will not be excluded from the scope of both licensing regimes, so if sexual entertainment is provided on an infrequent basis which exempts it from the requirement for a sexual entertainment venue licence, a premise licence or club certificate or temporary event notice would still be required.

## **Licence Applications**

### **General**

29. It is important that applicants clearly set out the steps that they intend to take to promote the objectives of this policy. This is the applicant's opportunity to demonstrate that they intend to run a responsible business.

The Council will expect applicants to give consideration to the following issues:

- Whether the activities are to be held in places where the passing public may see or hear them, for instance due to visibility/audibility from outside the premises or from the activities taking place in the premises
- Ensuring that children are not admitted to and cannot witness these activities
- Pre-employment checks and ongoing criminal record checks of staff
- Effective and responsible management of the premises
- The external appearance and siting of external advertising, signage, and lighting including security lighting
- Provision and maintenance of CCTV and storage of CCTV recordings
- The location of the premises and proximity to residential and other sensitive premises (see additional guidance on the location of the premises)

In respect of sexual entertainment venues, applicants will also need to consider:

- Codes of conduct for performers and staff including supervisors and security
  - Rules of conduct for customers
  - Disciplinary measures for performers, staff, and customers in the event of breaches of the above
30. The Council considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most important control measures for the achievement of the objectives of this policy. For this reason applicants will be expected to demonstrate how they intend to implement appropriate measures in this respect. If applicants are not able to do so then the application is likely to be refused.

### **Right To Waiver**

31. The Council may, upon application, waive the requirement for a licence in any case where it considers that to require a licence would be unreasonable or inappropriate. The waiver, if granted, may last for such period as the Council think fit, but can be terminated at any time with 28 days notice.

32. Each application for waiver will be considered on its own merits, however, any establishment that would normally require licensing under the provisions of the Act is unlikely to be granted a waiver other than in exceptional circumstances.

### **Application Details**

33. The applicant shall make their application in accordance with Clause 10, Schedule 3, of the Act and using the Councils application form, a copy of which can be found on the Councils website.
34. The applicant must:
- (a) Send the Council:-
    - (i) a completed and signed application form
    - (ii) the documents listed in the application form
    - (iii) the required fee
  - (b) Advertise the application in a local newspaper within seven days of making the application. (A prescribed form of advertisement can be found on the Councils website).
  - (c) Where the application is in respect of a premises display notice of the application on or near the premises subject to the application, where it can be conveniently read by the public, for a period of 21 days. (A prescribed form of notice can be found at on the Councils website).
  - (d) Send a full copy of the application to the chief officer of police within 7 days of making the application, unless the application is made electronically when the Council will be responsible for sending the copy.

It is the policy of this Council that notice of such applications shall also be placed on the Council's website.

### **Fitness Of The Applicant**

35. An applicant must be a fit and proper person to hold a licence. In determining the suitability of any applicant the Council will include in its determination:
- a) Previous relevant knowledge and experience of the applicant
  - b) Any evidence/information/report of the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other Licensing Authority area.
  - c) Any convictions, cautions, warnings or reprimands
  - d) Any relevant comments from statutory objectors
  - e) Any observation from a statutory consultee
36. Whilst every application will be considered on its merits, the Council will be unlikely to grant an application from any person, or for the benefit of any person, with unspent criminal convictions.

### **Location Of The Premises**

37. In accordance with relevant case law, the Council shall decide on the suitability of a particular locality for a Sex Establishment as a matter of fact to be determined by the particular circumstances of each case and not by the prescription of boundaries as stated on a map.

- 40 The Council is mindful of its power to determine that no Sex Establishment should be located in a particular locality.
41. Notwithstanding the above, licences will only be granted in predominantly commercial areas and the Council is mindful of its power to determine each application on its own merits. Applications will not normally be granted if they are to be within:
- (a) areas that are exclusively, or predominantly residential in character; or
  - (b) in close proximity to a school or any other premises used by children or vulnerable adults; or access routes to such premises; or
  - (c) a publicly accessible open space that is regularly frequented by children or vulnerable adults; or
  - (d) in close proximity to a place of worship; or access routes to such premises; or
  - (e) areas that are likely to be adversely effected due to the cumulative impact of the existing sex industry.

### **Commenting On Licence Applications**

42. Unlike some other licensing regimes a wide range of people can raise objections about sex establishment licence applications. The Police are a statutory consultee for all applications.
43. Objectors should have something to say which is relevant to consideration of the statutory grounds for refusal that are set out in the Act and should not be based on moral grounds/values.
44. Objectors can include residents/tenants associations, community associations and trade associations. Councillors and Members of Parliament may also raise objections. Elected Councillors may also represent interested parties provided that they do not sit on the General Licensing Committee determining the application in question.
45. The Council will not consider objections that are considered to be frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the Act). Decisions on whether objections are considered to be frivolous or vexatious will be made objectively by officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given a written reason.
46. A frivolous objection is generally taken to be one lacking in seriousness. A vexatious objection is generally to be taken to be one which is repetitive, without foundation or made for some other reason such as malice.
47. Objections will be considered by the Licensing Committee when the Council will give both the applicant and objectors an equal opportunity to state their case in accordance with the Council's protocol which is available on the Councils website.
48. Objections should:
- Be made in writing or email within 28 days of the application being made
  - Be preferably in black ink on A4 paper
  - Indicate the name and address of the person or organisation making the objection (although this will not be disclosed to the applicant).
  - Indicate the premises to which the objection relates

- Indicate the proximity of the premises to the person making the objection. A sketch map or plan may be helpful to show this.
- Clearly set out the reasons for making the objection

49. Where notice of an objection is received the Council will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However the Council will not without the consent of the person making the objection disclose their name or address to the applicant.

## **Consideration of an Application**

### **General**

50. When an application is received it will be processed and checked within 5 working days to ensure it complies with the requirements of the Act and this policy.
51. A consultation period of 28 days from the date of receipt of the application, unless it is deemed deferred pending further enquiries, shall follow to allow for any objections and/or observations to be made.
52. At the expiry of the consultation period the application will then be submitted to the Councils Licensing Committee for determination. This will usually be the next available scheduled meeting but subject to a minimum period of 20 working days to permit reports to be prepared and notice of the hearing to be given to the applicant and all interested parties. This period may be extended in exceptional circumstances and when all parties will be notified of the timescale and the reasons for the extension.
53. The Council will give the applicant(s) and objectors the opportunity of appearing before and being heard by the Licensing Committee before determining the application.
54. In determining an application relating to a Sex Establishment Licence the Licensing Committee of the Council will assess the application on its merits having regard to the content of this policy, the relevant legislation and any relevant guidance that may be issued from time to time, any observations submitted by the chief officer of police and any representations received.
55. Where it is felt necessary for the Council to depart from this policy clear and compelling reason for doing so will be given.
56. The Licensing Committee may consider refusing the application or granting a licence of 12 month duration or for a shorter term.
57. The decision of the Licensing Committee will be notified to the applicant and any objectors in writing and will include reasons for their decision.
58. The Council, when determining an application, shall have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

### **Conditions**

59. Schedule 3, section 13 of the Act provides a power for the Council to make regulations prescribing standard conditions in relation to Sex Establishment Licences.
60. The Councils Standard Conditions/Regulations are detailed in Appendix 1 of this policy.

61. All licences will be granted, renewed, transferred or varied subject to these Standard Conditions unless expressly excluded or varied by the Licensing Committee.
62. If other conditions are required in particular circumstances, they will be tailored to reflect the individual style and characteristics of the premises and activities concerned.
63. Conditions will not be imposed where the Council considers other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
64. Applicants who consider that some or all of the standard conditions should not be applied in their case will be expected to explain their reasoning in writing and will be expected to explain how the licensing objectives will be attained without such imposition.

## **Determination of Licence Applications**

### **Refusal of a Licence**

65. Paragraph 12 of Schedule 3 of the Act sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.
66. A licence must not be granted:
  - (a) to a person under the age of 18;
  - (b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
  - (c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
  - (d) to a body corporate which is not incorporated in an EEA State; or
  - (e) To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
67. A licence may be refused for the following reasons:
  - (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - (b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
  - (c) the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the Council consider is appropriate for that locality;
  - (d) that the grant or renewal of the licence would be inappropriate, having regard-
    - (i) to the character of the relevant locality; or
    - (ii) to the use to which any premises in the vicinity are put; or
    - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
68. A decision to refuse a licence must be relevant to one or more of the above grounds.

### **Variation Of A Licence**

69. The holder of a sex establishment licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
70. The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

### **Renewal Of A Licence**

71. The holder of a sex establishment licence may apply for the renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application must be submitted before the current licence expires.
72. The process for applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

### **Transfer Of licence**

73. An application for the transfer of a licence may be made at any time.
74. The process for applying for the transfer of a licence is the same as that for applying for the initial grant of a licence except that a plan of the premises is not required.

### **Appeals**

75. Where the Council refuses an application for the grant, renewal or transfer of a Sex Establishment Licence the applicant may appeal the decision to a magistrates' court within 21 days of being notified of that decision, unless the refusal is for reason that the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the Council consider is appropriate for that locality or that the grant or renewal of the licence would be inappropriate, having regard-
- (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
76. In which case there is no right of appeal. In such cases the applicant can only challenge the refusal by way of a judicial review.

### **Enforcement And Complaints**

77. The Council will investigate complaints about premises where appropriate, in relation to premises that are licensed and are breaching licence conditions or otherwise acting inappropriately, and in respect of unlicensed premises where it appears that the premises should be licensed.
78. The Council have adopted the Government's Concordat on Good Enforcement, which commits us to following fair, effective and consistent policies and procedures. On occasions we have to deal with matters that may constitute a criminal offence, for which a range of

actions may be taken against an individual, partnership or company. These matters will be investigated thoroughly to establish all the facts and where appropriate Officers will use their legal powers to enter premises, take samples, inspect and copy records, or seize goods and documents. On all occasions we will comply with the Human Rights Act and the Regulation of Investigatory Powers Act. At the end of our investigation a decision will be made whether to deal with the matter informally, or whether to follow a more formal course of action that may ultimately lead to prosecution. How we reach that decision is explained more in our Enforcement Policy for Regulatory Services.

[www.stockton.gov.uk/media/874787/enforcement-policy-march-2017.pdf](http://www.stockton.gov.uk/media/874787/enforcement-policy-march-2017.pdf)

[www.gov.uk/government/publications/regulators-code](http://www.gov.uk/government/publications/regulators-code)

79. The Council will work in partnership with the Police, Trading Standards, Environmental Health and any other relevant authority to enforce the licensing legislation. This may include carrying out inspections of licensed premises, test purchases and the investigation of complaints. This partnership approach is intended to prevent duplication of effort, maximise the potential for controlling crime and disorder at premises and to ensure compliance with relevant conditions.
80. Inspections will take place at the discretion of the Council and its partner agencies and will be concentrated on areas of need. A light touch approach will be employed for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
81. Where possible and appropriate, the Council and its partner agencies will give early warning to operators of any concerns.
82. The Council will carry out its responsibilities for enforcement so as to promote the objectives set out in this policy.

### **Fees**

83. Reasonable fees will be set to cover the cost of administration, compliance work and the cost of any hearings and will be reviewed annually.
84. Details of current fees can be obtained from the Council's website.

### **Further information**

Further information and application forms can be obtained from the Councils website at:

[www.stockton.gov.uk/our-people/licensing/](http://www.stockton.gov.uk/our-people/licensing/)

Tel: 01642 524802

Email: [licensing.administration@stockton.gov.uk](mailto:licensing.administration@stockton.gov.uk)



## **Appendix 1 – Standard Licence Conditions/Regulations**

### **Regulations Made By Stockton On Tees Borough Council Under Paragraph 8 Of Schedule 3 To The Local Government (Miscellaneous Provisions) Act 1982 As Amended By The Policing And Crime Act 2009 Prescribing Standard Conditions For Licences For Sex Establishments**

#### **General**

1. Throughout these regulations ‘sex establishment’, ‘sexual entertainment venue’, ‘sex cinema’, ‘sex shops’, and ‘sex article’ shall have the meaning ascribed to them in Schedule 3 of The Local Government (miscellaneous Provisions) Act 1982 and;

‘The Council’ means the Council of the Borough of Stockton-on-Tees; and

‘The premises’ means the premises, vehicle, vessel or store which is the subject of the licence.

2. In the event of a conflict between these Standard Conditions and any Special Condition contained in a licence relating to a Sex Establishment, the Special Conditions shall prevail.
3. The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law, order or regulation other than the Third Schedule of The Local Government (Miscellaneous Provisions) Act 1982.

#### **Management Of The Premises**

4. The premises shall not , without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the hours:

Monday – Saturday 09.00am – 20.00pm

The premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Sundays, Christmas Day, Good Friday or Easter Monday.

5. The licence or a clear copy shall be prominently displayed on the premises at all times so as to be readily and easily seen by all persons using the premises.
6. The licensed premise shall be used only for the purposes specified in the licence.
7. The licensee shall give written notice to the Council if he wishes to surrender the licence.
8. All notices, documents and advertisements issued by or on behalf of the business shall bear the trade name, style or title and address of the premises specified in the licence and shall contain no indication that it is licensed by the Council.
9. The Licensee or some other responsible person over 18 years of age nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and shall be present on the premises at all times when the premises are open to the public. Such written approval shall be continuously available for inspection by a police officer or an officer authorised in writing by the Council.

10. The name of the person responsible for the management of the premises, whether the Licensee or the manager, shall be prominently displayed on the premises at all times so as to be readily and easily seen by all persons using the premises throughout the period during which he is responsible for the conduct of the premises.
11. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary, or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
12. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.
13. All members of staff shall be easily identifiable as such and if required by the council in writing wear a badge of a type approved by the Council indicating his name and that he is an employee or person working in the premises.
14. The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
15. The Licensee shall take all reasonable precautions for the safety of the public and employees, and except with the consent of the Council, shall retain control over all portions of the premises.
16. No person under the age of 18 shall be admitted to any part of the premises which is used as a sex establishment or be employed in the business of the sex establishment.
17. The licensee shall operate a 'Challenge 21' policy with all staff insisting on evidence of age of any person appearing to be under 21 years of age and is attempting to gain entry to the premises. This evidence shall be photographic, such as a passport, photographic driving licence or an approved proof of age card such as a Validate Card, Portman Card or a Citizen Card.

**Proposed Wording**

The licensee shall operate a 'Challenge 25' policy with all staff insisting on evidence of age of any person appearing to be under 25 years of age and is attempting to gain entry to the premises. This evidence shall be photographic, such as a passport, photographic driving licence or an approved proof of age card such as PASS hologram identity card.

18. The Licensee shall maintain good order on the premises and in particular shall ensure that none of the following take place:
  - (a) Unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971;
  - (b) Indecent behaviour, including sexual intercourse;
  - (c) The offer of any sexual or indecent service for reward;
  - (d) Acts of violence against person or property and/or the attempted threat of such acts.
19. The Licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes.

**Note:** Solicitation includes the distribution of leaflets.

20. No alcohol shall be consumed within the premises unless the sale or supply of which is authorised by a licence under The Licensing Act 2003 and when service shall be to seated customers only.

21. No change of use of any part of the premises from that approved by the Council shall be made until the consent of the Council has been obtained.
22. No film or video or DVD shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Censors and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film or DVD so certified.
23. The Licensee shall provide copies of any documents reasonably required by an authorised officer of the Council or a Police Officer in relation to compliance with this licence.

#### **External Appearance**

24. The entrances to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.
25. Windows and openings to the premises other than entrances shall either be obscured or with the consent of the Council shall have suspended behind them opaque screens or blinds of a type and size approved by the Council to render the interior of the premises invisible to passers by.
26. The Licensee shall display a notice on the outside of the premises of such size and in such location as agreed by the Council stating 'No person under the age of 18 allowed. Any person appearing to be under 21 years of age will be required to show photographic proof of their age.'
27. The Licensee may with the consent of the Council exhibit on the outside of the premise the name of the business and a notice of such size and in such location as agreed by the Council consisting of the words 'Licensed Adult Establishment'
28. No other words, signs, posters, photographs, sketch, painting or any form of advertisement, display shall be displayed by or on behalf of the Licensee on, or outside or within the premises in a position where it is visible to passers by without the prior consent of the Council.
29. No external loudspeakers may be installed.

#### **State, Condition and Layout Of The Premises**

30. Notwithstanding the Licensees duties under other legislation and any obligations under any lease or other agreement for the use of the premises he shall maintain the premises in good repair and condition.
31. External doors shall be closed at all times except when persons are entering or leaving the premises and shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in effective working order.
32. The premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises or any entertainment taking place inside the premises is visible to passers by when persons are entering or leaving the premises.
33. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.

34. No access shall be permitted through the premises to any other adjoining or adjacent premises except in the case of emergency.
35. Artificial lighting sufficient to illuminate all areas of the premise as approved by the Council shall be in operation at all times when the sex establishment is open to the public.
36. No alterations or additions shall be permitted to the exterior or interior of the premises without the written consent of the Council.
37. A CCTV system approved by the Council and the Police Licensing Officer shall be installed on the premises covering all of the internal areas of the premises and any external areas that may be specified. The system shall be maintained in good working order and shall operate at all times when the premises are open. Recordings shall be maintained in a secure place for a period to be agreed with the Police Licensing Officer and the manager and a sufficient number of staff shall be trained in its use to ensure that recordings can be made available to the police or an authorised officer of the council when requested.

#### Proposed Wording

A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped. The system will incorporate sufficient built-in-hard-drive capacity to suit the number of cameras installed. CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition. Cameras will encompass all ingress and egress to the premises, outside areas and all areas where the sale/supply of food occurs. The system will record and retain CCTV footage for a minimum of 30 days. The system will record for 24 hours a day. The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer. The Digital recorder will be password protected to prevent unauthorised access, tampering or deletion of images. Upon receipt of a request for a copy of CCTV footage from Police, Licensing Officers or any other Responsible Authority, the member of staff will produce the footage within 24 hours or less if urgently required for investigations of serious crime. CCTV footage must be made available to be viewed by the Police, Licensing Officers or other Responsible Authorities on request during an inspection of or visit to the premises.

38. Notices shall be exhibited within the premises informing customers of the presence of CCTV

#### **Sex Shops (Additional Conditions)**

39. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail
40. Compilation videos or DVDs showing restricted 'R18' material shall not be played or shown within the premises. This condition will not however, apply to the previewing of individual 'R18' films by a prospective purchaser so long as the excerpt is no longer than 2 minutes duration and is not shown in the presence of other patrons.
41. 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 to be charged.
42. All mail order transactions from the premises shall be recorded in a suitable register approved by the Council.
43. Should the Council consider that any article, preparation, substance or material available for sale from the premises is likely to be dangerous to health, then on receipt of written notification stating the Council's reasons for the decision the licensee shall immediately remove the said article, preparation, substance or material from the premises and no like article, preparation, substance, article or material shall be sold or exposed for sale at the premises without the consent of the Council.

44. All printed matter offered for sale, hire or exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be prominently displayed within the premises where it can be easily read by prospective purchasers.
45. The Licensee shall without charge display and make available in the Sex Establishment 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 from time to time. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

### **Sexual Entertainment Venues (Additional Conditions)**

46. 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 be easily read by persons before entering the premises. Repeater notices containing this information shall also be prominently displayed inside the premises where they can easily be read by customers. No employee shall stand in such a position to obscure the notices.
47. No order shall be accepted unless the customer has been provided with a copy of the said tariffs and has been given sufficient time and opportunity to read it.
48. Any individual employed on the premises to conduct a security activity (within the meaning of The Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
49. The Licensee must ensure that a suitable number (to be agreed by the Council), of trained staff are employed to supervise the interior of the premises whilst performances are taking place under this licence.
50. Performers shall be aged not less than 18 years and the licensee shall carry out proof of age checks prior to employment. The licensee shall maintain written records of the names, addresses and dates of birth of performers including details of the identity checks and criminal record checks carried out.
51. A code of conduct for performers shall be produced by the Licensee, together with a disciplinary procedure for breaches of the code, and which shall be implemented if approved in writing by the Council. No amendments shall be made to the code or disciplinary procedure without the prior written consent of the Council.
52. The Licensee shall ensure that all performers are aware of the code of conduct for performers and the disciplinary procedure and a copy of the code and disciplinary procedure shall be given to each performer and a copy shall be prominently displayed in the performers changing rooms.
53. Rules shall be produced by the Licensee for customers indicating conduct that is deemed acceptable and action that may follow for non compliance. These rules shall be prominently displayed at all tables, at the entrance to the premises and in the public toilets provided in the premises.
54. The Licensee shall implement a policy to ensure the safety and welfare of performers during periods of work and when they leave the premises after a period of work.
55. Only activities which have previously been agreed in writing by the Council shall take place.
56. There shall be no mixed gender performance at any time.
57. Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed premises as may be agreed in writing with the Council.
58. Performers must remain clothed in public areas and all other areas except when performing in areas specified by the Council as where sexual entertainment may be provided.
59. Suitable and secure changing/dressing rooms shall be provided for performers.
60. At no time shall any customer, member or guest be permitted in the changing room(s).
61. Exit routes for performers to the changing/dressing rooms shall be kept clear.

62. Separate sanitary facilities shall be provided for performers.
63. Secure smoking areas shall be available for performers.
64. Performers must dress fully at the end of each performance.
65. Performers must never be alone in the company of a customer except in an area open to the public within the premises (except the toilets)
66. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
67. There shall be a minimum distance of one metre separation between the performer and any patron during any performance.
68. There shall be no physical contact between the customer and the performer before, during and after the performance except for the placing of monetary notes or dance vouchers into the hand or an article of clothing worn by the performer and notices outlining this requirement shall be prominently displayed at each table.
69. The Licensee shall ensure that during performances to which this licence relates:
  - a) Performers may not perform any act that clearly simulates any sexual act;
  - b) Performers may not intentionally touch a customer any time during the performance unless by accident or due to a third party;
  - c) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
  - d) Performers must never intentionally touch the genitals or breasts of another dancer or knowingly permit another dancer to intentionally touch their genitals or breasts;
  - e) Performers shall not use sex toys as part of their performance;
  - f) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the performer has no intention of carrying out the act;
  - g) Performers only perform nude or semi-nude dancing (of any description) within the areas specified by the Council.
  - h) Performers must not sit on or straddle customers.
  - i) Performers must not place their feet on the seats
70. The Licensee shall ensure that during any performance:
  - a) customers must be seated in an upright position against the back of the booth( if permitted by the Council) or seat with their hands by their sides before a dancer can start a table dance;
  - b) customers must remain seated during the entire performance of the dance;
  - c) for the purpose of restraint only, performers may only touch a customer above the customers chest with their hands only;
  - d) customers must not participate in any performance
  - e) customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment;
  - f) customers must remain appropriately clothed at all times.
71. The taking of any photographs, film, video or mobile phone photographs or video footage (excluding CCTV required by condition of licence) shall not be permitted and notices to this effect shall be prominently displayed at each table and at the entrance to the premises.

72. The Licensee shall produce and implement a drugs policy to the satisfaction of the Police Licensing Officer.
73. An incident book must be kept on the premises and maintained by the Licensee at all times. This must record date, time and description of incident/person involved that occur on the premises. The book must be made available to a Police officer or an authorised officer of the Council on request.

#### **Sex Cinemas (Additional Conditions)**

74. No film shall be exhibited at the premises unless it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18 or RESTRICTED (18 )and no notice of objection to its exhibition has been given by the Council.
75. Films in the RESTRICTED (18) category may be shown at the premises only with the Councils prior written consent and in accordance with the terms of any such consent.
76. 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 in accordance with the above conditions. Such a film may only be exhibited if the Councils prior written consent has been obtained and in accordance with the terms of any such consent.
77. No film shall be exhibited at the premises:
  - (i) 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 on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or
    - d. to promote sexual humiliation or degradation of or violence towards women.
  - (ii) 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
  - (iii) which contains a grossly indecent performance thereby outraging the standards of public decency.
78. 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.
79. Sex cinemas wishing to operate as a Club Cinema shall submit a copy of the cinemas Club Rules for approval and shall not operate until the written consent of the Council has been received.