

Sex Establishment Policy and Procedure

2020 - 2023

(to take effect from for 3 years)

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1. Introduction and Scope

- 1.1 This document sets out North East Derbyshire District Council's Policy regarding the licensing and regulation of Sex Establishments as defined by the Local Government (Miscellaneous Provisions) Act 1982 ("the Act" as amended by the Policing and Crime Act 2009. These are
- sexual entertainment venues
 - sex shops and
 - sex cinemas

(The full definitions can be found within sections 2, 2A, 3 and 4 of the Act)

Applications for such premises can raise significant concerns within the community and locality where the premises are, or are sought to be located.

One of this Council's aims is to strengthen community pride and cohesion in every neighbourhood whilst seeking to lower crime, the fear of crime and anti-social behaviour.

This Policy is intended as a guide to the Council in balancing the needs and interests of the business community, its patrons and employees with those of residents and communities when considering applications for Sex Establishment licences. Its purpose is also to inform interested parties of the principles by which the Council will make decisions.

- 1.2 In exercising its functions under the Act this Authority shall aim to consider each application for a Sex Establishment licence:
- within the context of principles set out in this Policy
 - in accordance with the Authority's statement of licensing principles
 - in accordance with any relevant guidance issued by the Home Office
 - in accordance with provisions of paragraph 12 of Schedule 3 of the Act
- 1.3 The aim of the Authority in this Policy is to address the impact of sex entertainment establishments in terms of crime and disorder and to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons. The Authority is committed to partnership with all stakeholders with a view to the promotion of this aim. The Authority recognises the impact that unregulated sex entertainment establishments may have on its communities and in delivering the sex entertainment regime will, with regard to the principles set out in this Statement, seek to support its local economy and protect vulnerable people. In doing so it will consider each application on its own merits within the

context of this Policy, the legislation and the guidance issued by the Home Office, any observations submitted to it by the chief officer of police and any relevant objections received from other parties within 28 days of the application.

- 1.4 Subject to statutory provision, a review of this Policy will take place periodically and any revisions to the Policy will be made taking into account information collated over a period of time; the outcomes of related initiatives at central and local government level and appropriate consultation.
- 1.5 Nothing in this statement should be regarded or interpreted as any indication that any statutory requirement regarding sex entertainment establishments or other relevant law is to be overridden.

Declaration

- 1.6 The Authority in the preparation of this Policy has had due regard to
 - The Local Government (Miscellaneous Provisions) Act 1982
 - The Policing and Crime Act 2009
 - Current guidance issued by the Home Office
 - Responses from those consulted on the Statement.

Consultation

- 1.7 Whilst there is no statutory requirement for the Licensing Authority to consult on the Licensing Authority Statement of Principles, the Home Office Guidance provides a requirement to do so in respect of local people. In addition the Authority has consulted with the chief officer of police for the area.

A full list of consultees is shown at Appendix 1 along with the response received by the Authority.

Local Area profile

- 1.8 North East Derbyshire is a local government district in Derbyshire, England. It borders the districts of Chesterfield, Bolsover, Amber Valley and Derbyshire Dales in Derbyshire, and Sheffield and Rotherham in South Yorkshire. We have a population of approximately 100,000 and have four main towns, Clay Cross, Dronfield, Eckington and Killamarsh.

The District and its surroundings abound with historical attractions, natural beauty with rolling countryside and dramatic landscapes and is an ideal base for businesses, with excellent transport links.

The District has good rail, road and air connections, with four M1 junctions, four Robin Hood Line train stations in the District and five international airports nearby.

- 1.9 A local area profile has been prepared based on local knowledge and taking into account a wide range of factors, data and information held by the Licensing Authority and its partners. It is anticipated that the local area profile will give operators a better awareness of the local area and both potential and actual risks. This is available on the Council's website.

Appendix 2 is a map showing the administrative boundaries of the district.

Authorised activities

- 1.10 The Act gives licencing authorities important regulatory functions in relation to sex establishments. The main functions are to:
- licence sex establishments
 - regulate sex establishments

Relationship with other legislation

- 1.11 In complying with the provisions of the Local Government (Miscellaneous Provisions) Act (as amended) the Authority recognises the requirements of other legislation and this Statement is not intended to duplicate the existing legislation and regulatory orders which create statutory obligations.

Rights of applicants

- 1.12 This Statement does not override the right of any person to make an application under the Act and have that application considered on its individual merits.

Data sharing and data security

- 1.13 The Authority will act in accordance with the provisions of the Act in its exchange of information and those of the General Data Protection Regulation 1998 (GDPR). The Authority will also have regard to any guidance issued by the Home Office on this matter.

Equality and Diversity

- 1.14 North East Derbyshire District Council is committed to promoting equal opportunities, valuing diversity and tackling social exclusion. The Council will aim to provide opportunities that meet the diverse needs of different people and groups of people by ensuring that services and employment opportunities are accessible to all. Everyone will be treated fairly and with

respect. Diverse needs will be understood and valued. The Council will aim to eradicate all forms of discrimination.

2. General Principles

- 2.1 A decision to refuse a licence application will not be made on moral grounds or on the ground that such an establishment might cause offence.

Mandatory grounds for the refusal of an application

- 2.2 Mandatory grounds set out in the Act for the refusal of an application are that the applicant:

- is under the age of 18
- is for the time being disqualified from holding a sex establishment licence
- is not a body corporate, and is not resident or has not been resident in a EEA state for six months immediately preceding the date of the application
- is a body corporate which is not incorporated in an EEA state
- has in the period of 12 months preceding the date of the application 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.

Discretionary grounds for the refusal of an application

- 2.3 Discretionary grounds for the refusal of an application for a sex establishment licence are that:

- the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason
- if the licence were granted, 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 of such a licence if he made the application himself
- the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate to that locality (nil may be an “appropriate number” where the character of the area is considered to be unsuitable for the siting of a sex establishment.
- Grant of a licence would be inappropriate, having regard to:
 - the character of the relevant locality
 - the use to which the premises in the vicinity are put
 - The layout, character or condition of the premises, vehicle or stall in respect of which the application is made

Suitability of applicant

- 2.4 When considering the suitability of an applicant to hold a licence the Council will take into account such matters as it considers to be relevant including but not limited to whether the applicant:
- is honest
 - is qualified by experience to run the type of sex establishment in question
 - has a clear understanding of the conditions that may be attached to the licence
 - any conviction of a nature that would, in the view of the Council, deem him unsuitable, including but not limited to theft, drug offences, sexual offences, violent offences or those relating to prostitution
 - has or intends to have a management structure in place which delivers compliance with any operating conditions likely to be imposed on the grant of any such licence, including but not limited to managerial competence and presence, management structure, an internal rules enforcement policy, business plan and policies regarding the welfare of dancers, performers and staff, including but not limited to how they will be protected and how their physical and psychological welfare will be monitored.
 - can be relied upon to protect members of the public from exploitation, including but not limited to transparent charging and freedom from solicitation
 - can demonstrate a track record of management of compliant premises, or that he will employ individuals who can demonstrate the same.

The Council will require the applicant to identify the proposed manager or beneficiary of the business, such requirement to continue following any grant of licence in the event of change of personnel. In the event of such change, the Council will apply the principles at 2.2 and 2.3 above.

Appropriate numbers and localities

- 2.5 There is provision within the Act to enable the Council to impose a numerical control on the number of sex establishments in a particular locality. The control applies not only to the number of sex establishments overall but, but also to the number of each kind of premises.
- 2.6 The Council may refuse a licence on the grounds that the number of licences of that type is equal to or exceeds the number which the Council considers is appropriate for that locality. Nil may be the appropriate number where the

character of an area is considered to be unsuitable for the siting of a sex establishment.

- 2.7 The Council has taken into account its own corporate strategies and priorities as represented by North East's Council Plan, the North East Safeguarding Adults Board Strategy, of the legal context and public consultation in determining its policy in this regard.

Sexual Entertainment Venues

- 2.8 The consultation showed that a majority of all respondents considered that Sexual Entertainment Venues would not be appropriate in:

LIST BASED ON RESULTS

- 2.9 In addition the consultation revealed that a significant majority of all respondents consider that Sexual Entertainment Venues are inappropriate in the vicinity of:

- **LIST BASED ON RESULTS**

- 2.10 The Council's policy is therefore that there is a presumption against licensing sexual entertainment venue in proximity to any of these sensitive locations.

- 2.11 In considering each of its Ward areas the Council has considered if there are any localities which would fall outside of the areas and locations described in 2.9 and 2.10 above. The Council will comply with its obligation to consider applications when submitted but the Council considers, as a matter of policy, that there [is no] locality in the District where it would be appropriate for Sex Entertainment Venues to be located.

- 2.12 [The Council has [not] determined a limit in each locality in relation to sex establishment venues; [applications will be dealt with on a case by case basis, with reference to the above criteria]].

Sex Cinemas

- 2.13 The consultation showed that a majority of all respondents considered that Sex Cinemas would not be appropriate in:

- **LIST BASED ON RESULTS**

- 2.14 A majority of respondents agreed or strongly agreed that it would not be acceptable to have a sex cinema in [any locality] in the District. The

Council's policy is therefore that there is a presumption against licensing sex cinemas in any of these types of areas.

2.15 In addition the consultation revealed that a significant majority of respondents consider that sex cinemas are inappropriate in the vicinity of:

- LIST BASED ON RESULTS

2.16 The Council's policy is therefore that there is a presumption against licensing sex cinemas in proximity to any of these sensitive locations.

2.17 In considering each of its Wards the Council has considered if there are localities which would fall outside of the areas and locations described in 2.14 and 2.15 above. The Council will comply with its obligations to consider applications when submitted but the Council considers, as a matter of policy that there is [no locality] in the District where it would be appropriate for sex cinemas to be located.

2.18 [The Council has [not] determined a limit in each locality in relation to sex cinemas; [applications will be dealt with on a case by case basis, with reference to the above criteria]].

Sex Shops

2.19 The consultation showed that a majority of respondents considered that sex shops would not be appropriate in:

- LIST

2.20 A majority of all respondents considered that sex shops would not be appropriate to have a sex shop in [any locality in North East Derbyshire]. The Council's policy is therefore that there is a presumption against licensing sex shops in any of these types of areas.

2.21 In addition the consultation revealed that a majority of residents in North East Derbyshire consider that sex shops are inappropriate in the vicinity of:

- LIST

2.22 The Council's policy is therefore that there is a presumption against licensing sex shops in proximity to any of these sensitive locations.

2.23 [The Council has [not] determined a limit in each locality in relation to sex shops; [applications will be dealt with on a case by case basis, reference to the above criteria]].

[Links to other legislation](#)

2.24 The Council will pay particular regard to the following legislation in when applications are determined:

(a) Crime and Disorder Act 1998

This Act places a duty on the Council to exercise its functions with due regard to:

- Crime and disorder (including anti-social behaviour) in the area
- The misuse of drugs, alcohol and other substances in the area

In the determination of a licence application the Council will consider the likely impact on these issues and the need to do all that is reasonable to prevent them.

(b) Equality Act 2010

Under this Act, no one may discriminate, harass, or victimise another of their:

- age
- disability
- gender reassignment
- marriage or civil partnership
- pregnancy or maternity
- race
- religion or belief
- sex
- sexual orientation

The Act includes a Public Sector Equality Duty. The Council must and will show “due regard” to:

- eliminating discrimination, harassment and victimisation
- advancing equality of opportunity
- fostering good relations between people who share a “protected characteristic” (shown above) and
- fostering good relations between those who have a protected characteristic and those who do not.

The Council is aware that sex establishments tend to be predominantly marketed to men. The licensing of these establishments must not encourage discrimination against women, especially those who work at or visit such premises or those who frequent the areas around such premises.

Therefore, in the determination of applications, the Council will consider its Public Sector Equality Duty, including attaching appropriate conditions to licences where granted.

(c) Human Rights Act 1998

The European Convention on Human Rights makes it unlawful for public authority to act in a way which is incompatible with a Convention right. The Council will have a particular regard to the following relevant provisions of the European Convention of Human Rights:

Article 6 (entitlement to a fair and proper hearing within a reasonable time by an independent and impartial tribunal)

Article 8 (a right to respect for home and private life)

Article 10 (freedom of expression)

Article 1 of the First Protocol (right to peaceful enjoyment of possessions)

(d) The Provision of Services Regulations 2009

The Regulations ensure that any refusal of a licence must be:

non-discriminatory in regard to nationality, necessary for reasons of public policy, public security, public health or the protection of the environment, and proportionate with regard to the objective pursued by the legislation.

The Council will consider these three requirements in relation to the refusal of licence applications.

(e) Any other relevant current or future legislation

Planning and Building Regulations

- 2.25 The use of premises is subject to planning control and all premises which are the subject of an application should have the benefit of planning permission or permitted development rights, proof of which shall be the responsibility of the applicant.
- 2.26 In addition, where building works have been executed production of a Building Regulations Completion Certificate and evidence of approval by a building control body will be required.

Advertising

- 2.27 Standard licence conditions will include a requirement that all advertising and the external appearance of the premises (including any changes

subsequently made) are approved by the Council (see Appendix B – Standard Conditions).

Staff Training

- 2.28 Standard conditions include a requirement that all persons employed on licensed premises shall be trained in particular in relation to the offences created by the Act and the conditions of the licence. Such training shall be documented, retained for a minimum of one year and made available for inspection on request by an authorised officer of the Council or a police officer.

Prohibition from fining of staff

- 2.29 For reasons of gender inequality, a standard condition will be imposed prohibiting this practice.

Whistleblowing

- 2.30 To ensure staff confidence in reporting licence or other breaches, standard conditions will include a requirement of a code of conduct for anonymous reporting to the manager of a venue and/or to the Licensing Authority.

Exemptions

- 2.31 The following sexual entertainment venues are exempt by the Act from a licensing requirement. These are defined as premises where
- relevant entertainment has been provided on no more than 11 occasions within a 12 month period and
 - no such occasion has begun within a period of 1 month beginning with the end of the previous occasions; and
 - no such occasion has lasted more than 24 hours
 - other premises or types of premises or display exempted by the Secretary of State.
- 2.32 Note: This exemption does not apply to sex shops or sex cinemas.

3. Applications procedure

- 3.1 Applications must be made to the Council in the form prescribed and must be submitted with all supporting documents and the licence fee. (Form available from the Licensing team and on the website - [LINK TO WEBSITE](#))

- 3.2 The applicant's suitability will be checked before a licence is granted to ensure that the interests of the public are protected. The criteria to be applied will be that the applicant:
- is honest
 - has a clear understanding of the conditions that may be attached to the licence
 - has a suitable business plan which will deliver compliance of the standard conditions
 - has no convictions of a nature deeming him unsuitable, for example) but not limited to) theft, drug offences, sexual offences, violent offences, or any relating to prostitution.
- 3.3 Suitability checks will be made by the following means:
- contents of application form
 - criminal records
 - personal interview
 - information/intelligence relating to any previous licenses held
 - accreditation
- 3.4 Application forms will be sent to Derbyshire Constabulary which may conduct its own checks and interview the applicant.
- 3.5 Non-compliance with one or more of the above criteria may not necessarily prevent the applicant from being granted a licence; it will be for the applicant to satisfy the Council that the interests of the public are protected.
- 3.6 Checks and enquiries may also be made regarding the applicant's business structure (to ensure that he is not submitting an application on behalf of an individual or company not suitable to be granted a licence in their or its own right). Checks may be made with other Licensing Authorities enforcement agencies and /or Companies House. Applicants may be required to produce business records.

Fees

- 3.7 The fee must be submitted with the application and is based on the costs incurred by the Council in determining the application.

Plans

- 3.8 The applicant must submit an appropriate number of plans/drawings (to an appropriate scale) allow the identification of:
- the locality of the premises and proximity of any sensitive sites
 - the external footprint of the premises

The internal layout of the premises (to include areas where licensable activities will take place, staff areas, changing rooms, welfare facilities, means of access and egress, fire escapes etc).

Notices

3.9 Under the Act an applicant must advertise the application in the following ways and within the following timeframes:

- by publication of an advertisement in a local newspaper within 7 days of the application being submitted to the Council
- by displaying a notice of the application on or near the premises for 21 consecutive days [?????when?]
- by sending a copy of the notice of application to the Chief Officer for Derbyshire Constabulary within 7 days of the application being submitted to the Council.

3.10 Proof that the above steps have been taken will be required of the Applicant. In addition to the above statutory requirements, the Council recommends that the occupants of any nearby premises are notified by the applicant of details of the application. All new applications will be published on the Council's website.

Objections

3.11 Anyone may object to an application and should do so in writing no later than 21 after the date of the application. Objections can be on any matter save for on moral grounds or values. Appropriate weight will be given to objections relating to the purpose of the legislation.

3.12 The Council will notify the applicant in writing of the general terms of any objection received within the above period however details of the objectors' identities will be redacted unless their wish to have their details revealed is specifically stated in the objection.

Hearings – decision-making process

3.13 It is the Council's practice to provide notice of committee and sub-committee hearings to all interested parties no later than [7 days???] before hearings. The notice will include the date and time and procedure of the hearing and will require the addressee to confirm their attendance and that of any witnesses they may wish to call. Hearings will be conducted in public save where the public interest requires otherwise.

- 3.14 In determining licence applications under the Act the Council will take into consideration the application before it, this Policy, any objections received as well as local knowledge, including local issues and cultural sensitivities.
- 3.15 The decision to refuse or revoke a licence can be made by the Licensing Sub-committee or Officers. Any decision to refuse or revoke a licence will be accompanied by clear reasons for the decision.
- 3.16 Where possible a decision will be given verbally at the sub-committee hearing, with written reasons to follow. In exceptional circumstances the sub-committee may defer the decision in order to allow further consideration of the case and in such circumstances the decision and reasons will be issued to all parties in writing.

Conditions

- 3.17 The Council will impose standard conditions on all licences save where deemed necessary the Council may add to, change or replace the standard conditions with conditions which are relevant to the particular application. The standard condition scan be found at Annex B.

Right of Appeal

- 3.18 The applicant has a right of to appeal the Council's decision to the Magistrates' Court within 21 days of written reasons. There is no right of appeal for objectors. Further information may be found at section 27 of the Act.

Term of licence

- 3.19 A sex establishment licence shall remain in force for a maximum period of one year. The Council may grant a licence for a shorted period should it be deemed necessary and a licence may be brought to an end by surrender or revocation.

Renewal/transfer

- 3.20 The process for renewal or transfer of a licence follows that for an application for a new licence.
- 3.21 Applications for renewal must be made prior to the date of expiry. Without prejudice the licence will then be deemed to continue until the application is either withdrawn or determined by the Council.
- 3.22 Previous conduct and history of a licence holder or applicant will be taken into consideration when assessing a renewal or transfer application.

Variation

- 3.23 A licence holder may apply for a variation in terms, conditions or of a licence at any time and the process to do so is that for licence applications, save for the requirement to provide plans will only apply where the variation relates to structural alterations.

Revocation

- 3.24 The Council may revoke a sex establishment licence if information is received relevant to either the mandatory grounds for refusal as set out in the Act or the first of the two discretionary grounds, detailed at paragraph ?????? above.
- 3.25 In the event of consideration by the Council of revocation the licensee will be given an opportunity to appear before and be heard by the Licensing [sub-??]committee.
- 3.26 The licensee will be given a statement in writing of the reasons for consideration of revocation no later than seven days before the hearing.
- 3.27 The revocation will take effect once the appeal period referred to in paragraph 3.18 above has expired, or if an appeal is lodged after the determination or abandonment of the appeal.

Waiver

- 3.28 Provisions within the Act allow licensing authorities to waive the need for a licence. Should the Council decide that a licence would be unreasonable or inappropriate, it may waive the need for a licence, for example in the case of a medical bookshop, sex clinic, in borderline cases, to correct errors or for minor or temporary events.
- 3.29 The Council will only waive the need the need for a licence where activity is low risk and/or temporary. However, a waiver will not be considered in cases where a licence is reasonable and appropriate or where a licence is in the public interest.
- 3.30 An application for a waiver should be made on the same form as that required for a new licence and should be accompanied by a letter setting out the grounds relied on for such a waiver. There is no requirement for such an application to be advertised prior to submission. A fee is payable on submission. Applicants should contact the Licensing Section before making the application.

- 3.31 A decision to waive the need for a licence will be taken by the licensing (sub?)committee and a Notice of Waiver will be issued thereafter in the event of the application being granted.
- 3.32 Unsuccessful applicants for waivers will be notified in writing and a formal application for a sex establishment licence should be made thereafter.

Appendix A

Interpretations

Advertisement means any word, letter, image, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of announcement or promotion.

Authorised Officer means an officer employed by North East Derbyshire District Council and authorised by the Council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982.

The Council means North East Derbyshire District Council

Displays of nudity means exposure of a person's pubic area, genitals or anus and in addition, in the case of a woman, exposure of her nipples.

Dancer/performer includes any person (employed or otherwise) who provides relevant entertainment.

Licence means any sex establishment licence which the Council has the power to grant under the Local Government (Miscellaneous Provisions) Act 1982.

Licensee means the holder of a sex establishment licence.

Licensed area means that part of premises marked on a relevant plan where licensable activities are to take place.

Premises includes any vehicle, vessel, or stall save for any private dwelling to which the public is not admitted.

Relevant entertainment means any live performance (including verbal) or any live display of nudity which is of such a nature that, regardless of financial gain, it can be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.

Responsible person means the person nominated by the licensee to assume personal control of and be present on the premises whilst those premises are open to the public.

Sex shop means any premises, vehicle vessel or stall used for a business consisting to a significant degree of selling, renting, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with or for the purpose of stimulating or sexual activity or gratification.

Sexual entertainment venue means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser.

Standard conditions means terms, requirements or restrictions contained or referred to in the schedule to a licence granted under Schedule 3.

Unsolicited advertising means any material distributed or circulated without request for the purposes of promotion and includes newspaper, television, radio and social media advertising and flyers and posters.

Vehicle means a conveyance for transporting people or goods on land or water.

Worker means any person who works on or at premises, whether for pay or otherwise and includes managers, bar staff, security personnel, dancers, performers, entertainers, and any other person otherwise involved in the operation of premises during a period when licensable activity is taking place.

Appendix B

Standard Conditions

Sexual Entertainment Venues

General

1. In accordance with Home Office guidance, where one condition appears to conflict with another condition within a sex establishment premises licence, the more onerous will apply.
2. Unless stated otherwise, a licence shall remain in force for one year from the date on the licence, after which it shall cease to have effect unless an application for renewal has been submitted ***before the expiry of the one year period (to be discussed)*** in the manner prescribed by the Council.
3. A licence may be revoked by the Council at any time if the holder of a licence is convicted of an offence of using licensed premises other than in accordance with the terms or conditions or restrictions on the licence or is convicted of any offence under any enactment specified in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Conditions) Act 1982 as amended.
4. In the event of a conflict between any standard condition and any special condition contained in a licence, the requirements of a special condition shall apply.
5. The name of the premises must be approved by the Council in writing in advance of the use of such name. Any change to the name must be approved in the same way.

Display of the licence

6. The licence or certified copy of the same must be prominently displayed so as to be readily and easily seen by all persons using or visiting the premises at all times. A copy of the conditions of licence must be kept on or at the premises and must be available for inspection by an authorised officer of the Council at all times.

Hours of Opening

7. Except with the written consent of the Council, the premises will only open to the public during the following hours:

Monday 21:00 - 00:00
Tuesday 21:00 - 00:00
Wednesday 21:00 - 00:00
Thursday 21:00 - 00:00

Friday 21:00 - 01:00
Saturday 21:00 - 01:00
Sunday 21:00 - 01:00

Conduct of the premises

8. Relevant entertainment will only be performed by the dancer/performer: there must be no audience participation.
9. Dancers/performers will only perform on the stage area or in booths or areas as specified by the Council and identified on the plan attached to the licence.
10. Customers will only be permitted to dance in areas specified by the Council as being separate from areas for sexual entertainment and identified on a plan attached to the licence.
11. Performances will be restricted to dancing and the removal of clothes. There will be no other form of sexual activity or stimulation (which includes kissing).
12. The use of sex toys and penetration of the genital area by any means during performances are prohibited.
13. Dancers/performers shall re-dress at the conclusion of each performance.
14. Customers will not be permitted to throw money at dancers/performers.
15. No customers shall be admitted to or allowed to remain on the premises if they appear to be intoxicated or behave in an unruly manner.
16. Customers must remain fully clothed at all times.
17. The taking of photographs, making of videos or similar recordings (including through use of mobile or video streaming devices of the relevant entertainment will not be permitted.
18. Customers will not be permitted to be alone with a dancer/performer in any area to which the public do not have direct access.
19. The licensee must ensure that there is a sufficient number of staff present inside the premises to supervise customers and dancers/performers.

20. All **nude (inconsistent with 24 below!) table dances (not defined!)** must take place in a supervised area and within five metres of a member of supervisory staff.
21. Save for toilets available for use of both dancers/performers and customers, performers/dancers may only be in the company of customers in an area open to the public.
22. Single-sex toilet facilities must be made available for the use of performers/dancers **(Note: added by DAC, with a view to further protecting performers from potential harassment from male customers)**.
23. Notices must be clearly displayed on each table, bar and at the entrance to the premises stating that:
- (1) There is to be no physical contact between dancers/performers;
 - (2) A minimum distance of 300 millimetres is to be maintained between dancers/performers and customers.
24. Dancers/performers must not:
- (1) Climb onto furniture provided for customers
 - (2) Simulate sex acts
 - (3) Remain in a state of undress once their performance is completed (NB Is this condition appropriate or necessary? The conditions attach to the licence and bind the licensee, NOT the performers; the conditions below relate to the licensee's obligations and go beyond the above in any event) .**
25. Performers/dancers shall at all times wear as a minimum a non-transparent G-string and at no time shall they reveal any part of their genitalia or anus.**(NB See comment above)**
26. The licensee must ensure that during any dance/performance **(NB Why restrict this to times of performances etc? Surely none of what follows should be permitted at any time?):**
- (1) No dancer/performer performs any act which simulates any sexual act;
 - (2) No dancer/performer touches a customer save for the purposes of necessary restraint, in which case, contact is only made with the use of hands to the area above a customer's chest;
 - (3) No dancer/touches the breasts or genitals of another dancer/performer;
 - (4) No dancer/performer uses sexually graphic language;
 - (5) No dancer/performer sits on or straddles a customer;
 - (6) No dancer/performer climbs onto furniture provided for customers or places their feet on a customer's seat;

- (7) No dancers/performer remains in a state of undress once they have completed their act;
- (8) No dancer/performer exposes any part of their genitalia or anus at any time and wears (as a minimum) a non-transparent G-string (***NB inconsistent with references for “nude” dancing etc elsewhere, eg 19 above!!***);
- (9) No dancer/performer engages in communication with customers in a way which could be reasonably interpreted as constituting solicitation or prostitution

27. In addition to the above, the licensee must ensure that during any performance of a **table dance** (***NB Not defined!***) customers are seated in an upright position against the back of their seat with their hands by their sides;

External appearance and notices

28. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

“STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

These premises operate a Challenge 25 policy.

Persons who appear to be under the age of 25 will be required to show proof of age”.

29. The external appearance of the premises must be approved by the Council in writing. Any change to the external appearance must be approved by the Council. The operator must advise of any proposed change in writing, including a drawing of the existing and proposed street elevation. This must be approved by the Council in writing before work is undertaken.

30. Access to the licensed area of the premises must be through a lobby or entrance area which is constructed in such a way that that part of the interior where relevant entertainment takes place is not visible to passing members of the public when the doors of the premises are open.

31. Windows and other means by which the interior of the premises might otherwise be viewed into must be obscured in a manner and with materials approved by the Council so as to prevent any member of the public from seeing into the premises.

32. External signage must only be illuminated or displayed during times when the premises are open.

Advertising

33. Any unsolicited written, visual or auditory advertising material, posters, signage or window display must not be sexually explicit or in any way cause a detriment to the amenity or character of the local vicinity and must be approved in advance of its use by the Council in writing.
34. No verbal promotion, touting or advertising of the premises is permitted and nor shall staff or subcontractors be permitted to direct potential customers to any means of transport connected with the premises.
35. No distribution of flyers or leaflets advertising or promoting the premises is permitted other than between the hours of 9.00pm and 12.30am and at those times only within a 100 metre radius of the premises. All such flyers and leaflets must be removed from the highway within that radius by 5am. Flyers must not be distributed to any person under the age of 18 years.

Layout of the premises

(The term 34 in Rotherham's doc.) repeats the intention in para. 30 above but adds (?)unnecessary requirements to that para.)

36. No access shall be permitted within the premises either to or from adjoining or adjacent premises save in the case of an emergency.
37. Save for routine maintenance work, any alterations must be approved in advance by the Council in writing.
38. Any reopening of premises following a closure of longer than ***(?two weeks?)*** for works to be executed shall require the prior notification of the Council of the satisfactory completion of those works by the licensee.

Management of the premises

39. The licensee must ensure that he/she or a person nominated by him to manage the premises on his behalf ("a manager") is present at all times when the premises are open to members of the public.

40. Where a licensee is an incorporated or unincorporated business, any change of director, company secretary or other person responsible for the management of the business must be notified to the Council within 14 days of such change. Any details or information relating thereto requested by the Council in writing must be furnished within 14 days of such request.
41. The licensee must ensure that any manager:
- a) has been provided with written confirmation of such role and
 - b) is able to produce such written confirmation, on demand, to an authorised officer of the Council or a police officer at all times when at work on the premises.
42. The licensee must ensure that any criminal charge or conviction relating to either him/herself or (in the event that the licensee is a body corporate) any director, company secretary, or any manager employed by the licensee is notified to the Council ***within 7 days (my suggestion!)*** of any such charge or conviction.
43. The licensee must ensure that he/she maintains control of all parts of the premises, must not let, licence or part with possession of any part of the premises and must notify the Council within 24 hours in the event that any part of the premises is affected by termination of lease or other event affecting the licensee's control of the premises.
44. The licensee must ensure that members of the public are not admitted access to any part of the premises not approved by the Council for such access.
45. The licensee must ensure that no person under the age of 18 years is either admitted to the premises or is employed to work in connection with the premises.
46. The licensee must ensure that a "Challenge 25" age verification policy is operated on the premises (persons who appear to be under the age of 25 will be required to show proof of age prior to gaining admission to the premises) and a notice to this effect will be prominently displayed on the premises.
47. The licensee must ensure compliance with all relevant statutory and regulatory provisions.

48. The licensee must ensure that a draft code of practice for dancers/performers is submitted to the Council and to the police for approval. Following such approval, the licensee must ensure that a copy of such code is provided to each dancer/performer and is prominently displayed in areas to which they have access.
49. The licensee must ensure that a draft code of practice for customers is submitted to the Council and to the police for approval. Following such approval, the licensee must ensure that a copy of such code is prominently displayed at each entrance to the premises, at the entrance to any private dance areas and in any other areas specified by the Council.
50. The licensee must ensure that price lists for both drinks and sexual entertainment are clearly displayed at each entrance to the premises, at each bar and at each table.
51. The licensee must ensure that suitable and sufficient training is provided to all staff, such training to be documented and that documentation available for produce to an authorised Council officer or police officer on request.
52. The licensee must ensure that both his/her name and that of any of the manager on duty is prominently displayed on the premises at all times when the premises are open to members of the public.

Safety and security

53. The licensee must ensure that a colour digital CCTV system is operational at the premises at all times when the premises are open to members of the public, such system to cover all areas to which members of the public have access (save for toilets).
54. The licensee must ensure that CCTV cameras are located as designated by the Council on any site plan and that no changes are made to such location without the prior written consent of the Council and police.
55. The licensee must ensure that the CCTV system is of such standard as to ensure identification of persons and activities and (in the event of the premises including a parking area) vehicle registration number plates.
56. The licensee must ensure that CCTV footage is retained and stored for a continuous period of 28 days from the date of recording and has constant and accurate time and date generation.

57. The licensee must ensure that retained CCTV footage can be downloaded or copied in such a way as to be in a viewable format and is available for inspection or seizure on request of an authorised Council officer or police officer.
58. The licensee must ensure that he/she and any manager is trained in the use of the premises' CCTV equipment, including the production of footage or images to the police or an authorised Council officer and in the legal duties and powers contained in the Data Protection Act 1998 and ##### Regulations ##### relating thereto.
59. The licensee must ensure that at all times CCTV footage is retained in a secure environment and that sufficient measures are taken to prevent any unauthorised or unlawful viewing, tampering or copying, or other breach of any statutory provisions relating thereto. [**Note: are the above para.s 55 – 59 sufficient for the purposes of Data Protection reg.s etc?**]
60. The licensee must ensure that a minimum of two Security Industry Authority registered door staff are present at all times when the premises are open to members of the public (***NB In relation to this and other provisions, I've extended the times within Rotherham's conditions, which merely state: "during the performance of relevant entertainment" – for discussion!***)
61. The licensee shall ensure that an incident log is retained and made available for endorsement by him/her, any manager, all members of staff and performers/dancers at the premises and for production to an authorised Council officer or police officer on request and such log records each and every:
- a) alleged crime reported at the venue;
 - b) ejection of members of the public;
 - c) complaint received
 - d) incident of disorder;
 - e) seizure of drugs or offensive weapons
 - f) fault in the CCTV system or any search or scanning equipment;
 - g) refusal of sale of alcohol;
 - h) visit by police or Council officer or emergency services employee;
 - i) alleged breach of license condition reported by any person.
62. The licensee must ensure that a fire safety risk assessment is carried out in connection with the premises and any written assessment report produced therefrom is retained on the premises and is available for inspection by an authorised Council or police officer.

63. The licensee must ensure that good order is maintained on the premises at all times and that all persons, on leaving and entering, conduct themselves in such a way as to cause no annoyance to either residents in the vicinity or persons passing by.

Dancer/performer welfare

64. The licensee must ensure that no dancer/performer is under the age of 18.

65. The licensee must ensure that a dancer/performer has:

- (a) no convictions for theft, drug-related, sexual or violent offences or offences
- (b) the right to work in the UK.

(c) The licensee must keep records of checks made on those matters at (a) and (b) above.

66. The licensee must ensure that each dancer/performer is provided with copies of the following documents:

- (a) A copy of the conditions attached to the Sex Establishment Licence
- (b) Details of any other conditions applied by the management of the premises
- (c) A copy of the code of practice for dancers/performers
- (d) A copy of the code of conduct for customers
- (e) A copy of the process for anonymous reporting of concerns to management and the Licensing Authority (the “whistleblowing policy”)
- (f) A copy of the price list for sexual entertainment and alcoholic drinks

And the licensee must ensure that a record is kept of the provision of the above documents and that the record is signed and dated by the dancer/performer

67. The licensee must ensure that dancers/performers are provided with private secure dressing rooms, facilities to secure person possessions and adequate sanitation facilities and that copies of the documents listed in condition 66 above are displayed therein.

68. The licensee must ensure that at least one female member of staff authorised to be responsible for the safety and welfare of dancers/performers is present and on duty at all times when licensable activities are taking place.

69. The licensee must ensure that all booths and VIP areas used for private dancers are visible and accessible to supervision when licensable activities are taking place.
70. The licensee must ensure that all booths and VIP areas used for private dancing are directly supervised by either a SIA registered door supervisor or a member of staff who has direct contact with a SIA registered door supervisor on the premises at all times when licensable activities are taking place. Note: CCTV monitoring will not amount to compliance with this condition).
71. The licensee must ensure that dancers/performers will only be in a state of nudity in the licensable area when performing on stage or providing a private dance.
72. The licensee must ensure that any person present in the premises who may be observed from outside the premises is properly and decently dressed.
73. The licensee must ensure that there is no practice of fining in place for breach of any rule or condition, whether relating to the terms of the licence, management or other policy.
74. The licensee must ensure that customers and staff do not interact whilst using any smoking area and that dancers/performers are dressed in at least robes or coats of knee length whilst using such an area.
75. The licensee must ensure that during lap or table dancing performances customers remain seated, fully clothed, with hands clearly visible and either resting on the chair/sofa on which they are sat.
76. The licensee must ensure that if a dancer/performer is invited to have a drink with a customer, the dancer/performer remains fully clothed during throughout and that no dancer/performer is paid commission on the sale of drinks.
77. The licensee must ensure that dancers/performers are escorted to their transport by a SIA registered supervisor on leaving the premises.
78. The licensee must ensure that individual records are kept at the premises in respect of each dancer/performer, to include either a copy of their birth certificate, current passport, driving licence or national identity card and shall be ensure such records are immediately made available for inspection by police or officers of the Licensing Authority on request.

79. The licensee must ensure that the rights of current or prospective dancers/performers not to be discriminated against are upheld in the course of either their employment or the employment process and this includes in relation to age, race, physical ability or affiliation with any organisation.

Vessels, vehicles and stalls

80. Save in the instance set out in condition 81 below, in the case of licensed premises which are a vessel, vehicle or stall, the licensee must ensure that the vessel, vehicle or stall is not moved from the location specified in the licence without 28 days prior written notice to the Licensing Authority of such intention. The Authority may require the licensee to lodge such written application as it may deem appropriate and such fee as it may deem reasonable.
81. The requirements set out in condition 80 above shall not apply where the vessel, vehicle or stall is being moved to another place for storage only, the details of which location having been specified in the licence.
82. The licensee must ensure that vessel, vehicle or stall is not used for personal solicitation, touting or advertising.

Variation of conditions

83. The Council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions as it sees necessary.
84. The licensee may apply to the Council to vary any of the terms of the licence.
85. Applications for variation of conditions of licence must be advertised by the licensee in the same manner as an application for the grant, renewal or transfer of a licence.

Standard Conditions

Sex Cinemas

General

1. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the Council.
2. The licence may be revoked by the Council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with

the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment specified in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.

3. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
4. The name of the premises must be approved by the Council in writing. Any change to the name of the premises must be approved by the Council in writing in advance of its use.

Exhibition of the licence

5. The licence or a true copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the Council.

Hours of opening

6. Except with the written consent of the Council, the premises will only be open to the public during the hours specified in the licence.

Use of the premises

7. The premises will be used for the exhibition of films.
8. The licensee, or any other person concerned in the management of the premises, will only obtain custom by means of personal solicitation or touting from the premises in such a way as not to cause concern to the public or the licencing authority. Any literature relating to the premises must contain no images or text of a sexually explicit, obscene or offensive nature.
9. The licensee must ensure that no part of the premises is used in any way for the purposes of solicitation of or actual prostitution.

External appearance

10. The licensee must ensure that a notice is displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

“STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE
These premises operate a “Challenge 25” policy.

Persons who appear to be under the age of 25 will be required to show proof of age”.

11. The external appearance of the premises must be approved by the Council in writing. Any change to the external appearance must be approved by the Council. The licence holder must advise the Council in writing (including a drawing of the existing and proposed street elevation) of any proposed change and obtain written consent to that change before any work is undertaken.
12. The content and distribution of flyers must not be such as to cause public offence and flyers must not be distributed by or to persons under the age of 18 years.

Layout of the premises

13. Access to ground floor premises may only be through two or more doors placed consecutively, so arranged as to ensure that when a person enters or leaves the interior of the premises is not visible to persons outside the premises. The first set of entry doors must be fitted with a device to ensure their automatic closure and such a device must be maintained in good working order.
14. No access shall be permitted through the premises to any other adjoining or adjacent premises except in the case of emergency.
15. No alterations (whether temporary or otherwise), save for alterations in respect of routine maintain, shall be made to the structure and installations on the premises, without the prior written consent of the Council.

Management of the premises

24. 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 business shall be notified to the Council within 14 days of such change. Such details as the Council may require in respect of any such changes shall be furnished within 14 days of a request in writing from the Council.

25. The licensee, or responsible person nominated by the licensee in writing for the purpose of managing the venue (“the manager”) shall have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination shall be produced on demand to an authorised officer of the Council or police.

26. The licensee shall ensure that any nominated person under the above:

(a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them;

(b) is in possession of the written nomination referred to above at all times whilst in charge of the premises.

27. Where the licensee, director, company secretary or manager is convicted of an offence, they must, as soon as reasonably practicable thereafter inform the Council of the details of the conviction and the sentence imposed.

28. The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The Council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.

29. The licensee shall ensure that no members of the public are admitted to any part or parts of the premises not approved by the Council for such admittance.

30. The licensee shall keep a record of all staff or other workers on the premises, including names, addresses, dates of birth, current and preceding address and any convictions recorded against them (subject to the provisions of the Rehabilitation of Offenders Act 1984).

31. A copy of staff or workers' records as above shall be produced on demand to an authorised officer of the Council or police.

32. No person under the age of 18 years shall be admitted to the premises.

33. The license shall operate a "Challenge 25" verification policy and persons who appear to be under the age of 25 years shall be required to show proof of age prior to admittance.

34. No person under the age of 18 years shall be employed in any capacity.

35. The licensee shall notify the Council immediately in the event of any changes to the management or operation of the premises.

Safety and security