

To: Chair & Members of the General  
Licensing Committee

The Arc  
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Clowne  
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Wednesday, 28th October 2020

Dear Councillor

**GENERAL LICENSING COMMITTEE**

You are hereby summoned to attend a meeting of the General Licensing Committee of the Bolsover District Council to be held as a virtual meeting and in the Council Chamber, The Arc, Clowne at the conclusion of the General Licensing Sub Committee at 11am.

Members will be sent the details on how to access the Virtual Meeting by email.

Virtual Attendance and Hybrid Meetings

I have provided the Leader and Deputy Leader with advice on the holding of “hybrid” meetings outlining the risks including to employees dealing with the Chamber and to Members. Hybrid meetings are those where some attendance is in person in the Council Chamber and some is virtual.

I would encourage you all to attend virtually.

Accordingly if you attend in person you will be deemed to have accepted the following disclaimer (overleaf) as applying.



**We speak your language**  
Polish **Mówimy Twoim językiem**  
Slovak **Rozprávame Vaším jazykom**  
Chinese **我们会说你的语言**

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or another format please call us on 01246 217753**

If you require an adjustment to enable you to participate in or access the meeting please contact the Governance Team at least 72 hours before the meeting starts.

## Risk Assessment Disclaimer

When attending this meeting in person, I confirm that I have read and understood the contents of each of the following risk assessments and agree to act in line with its content.

- Covid-19 ARC RTW RA001
- Working in Offices At The Arc During Covid-19 Pandemic Guidance – ARC – SSW001
- Meetings – EM001 - Committee and Council Meetings during the Covid-19 pandemic

*These documents have been emailed to Members and are available on the Modern.Gov App library.*

The same advice is given to officers who are also encouraged to participate in the meeting remotely.

Register of Members' Interests - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised from page 3 onwards.

Yours faithfully

A handwritten signature in black ink that reads "Sarah Steuberg". The signature is written in a cursive, flowing style.

Solicitor to the Council & Monitoring Officer

**GENERAL LICENSING COMMITTEE  
AGENDA**

**Thursday, 5th November 2020 held as a virtual meeting and in the Council Chamber, The Arc, Clowne at the conclusion of the General Licensing Sub Committee at 11am.**

Item No.		Page No.(s)
	<b><u>OPEN ITEMS</u></b>	
1.	<b>Apologies For Absence</b>	
2.	<b>Urgent Items of Business</b>	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	<b>Declarations of Interest</b>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
4.	<b>Local Government (Miscellaneous Provisions) Act 1982 – Draft Sex Establishment Policy Review.</b>	4 - 48

## Bolsover District Council

### General Licensing Committee

5<sup>th</sup> November 2020

#### **Local Government (Miscellaneous Provisions) Act 1982**

#### **Draft Sex Establishment Policy**

#### **Review**

### Report of Solicitor, Legal Services

This report is public

#### Purpose of the Report

- The purpose of this report is for the Licensing Committee to consider and feedback on the draft of the Council's **Sex Establishment Policy**

#### **1 Report Details**

- 1.1 Under the Local Government (Miscellaneous Provisions) Act ("LGMPA") as amended, subject to the contents of 1.2 below, the Council has powers to control the number and location of sex establishments in its area.
- 1.2 The Licensing Committee has passed a resolution to invite the full Council to resolve to adopt the legislation. In order to proceed, the Council must carry out a public consultation. To reduce risk of legal challenge, it was agreed that such consultation should be carried out prior to formal adoption. It was considered that the Policy itself should be publically consulted on at the same time.
- 1.3 The Scrutiny Committee has approved the attached draft version of the Policy and this Committee is now being invited to review and provide comments. Should the Licensing Committee have comments on the draft in its present form these will be incorporated and the revised draft will then be circulated as part of the public consultation process.
- 1.4 The outcome of the 12 week consultation period will be fed back to the Licensing Committee, and a final version of the policy will then be recommended to Full Council for approval.
- 1.5 A Local Area Profile (LAP) will be prepared in due course as a separate document. The LAP will map out the characteristics of the area, and because the area profile can change so frequently it is seen as good practice to keep this document separate. This is still in development at this time but will be published at the same time as the draft Policy, to ensure that the LAP is as up to date as possible.

- 1.6 The key aspects to the contents of the policy are as follows:

**Introducing a policy document which sets out the Councils approach to sex establishment regulation**

**Citing the findings of the public consultation** – clearly this part of the Policy is absent at this stage and will be drafted following such consultation. By including the findings the Council will be able to demonstrate that the adoption of the legislation and the contents of the Policy clearly reflect the will of its residents. This is important in protecting the Council against judicial review.

**Setting out of statutory criteria for mandatory and discretionary grounds for refusal of an application**

**Separately detailing the Council’s policy in respect of the granting of licenses for each type of sex establishment (sexual entertainment venues, sex cinemas and sex shops)**

**Detailing other legislation relevant to the grant or refusal of a licence**

**Specifying exemptions**

**Setting out the application procedure and those for variations, renewals, transfers and revocations**

**Detailing interpretation of key terms**

**Setting out standard conditions for each type of sex establishment**

**2 Conclusions and Reasons for Recommendation**

- 2.1 Bolsover District Council’s Licensing Committee resolved that the full Council should be invited to consider passing a resolution to adopt the legislation and policy in respect of sex establishments. This process, which would include implementation of key elements of the public consultation, would mean that residents will have a greater say in what happens within their community.

**3 Consultation and Equality Impact**

- 3.1 The approved draft policy will be subject to a full public consultation. The feedback will be presented to members of the licensing committee thereafter and approval sought to recommend the final version of the policy to Council.
- 3.2 Similarly an equality impact assessment will be undertaken once feedback has been received, before the matter goes to the Licensing Committee.

**4 Alternative Options and Reasons for Rejection**

- 4.1 There is no legal requirement to adopt the legislation or have a Policy in place. However, the Licensing Committee has approved this action and doing so gives the Council power to regulate the number and type of establishments in its area and the manner in which such premises are run. Residents could question why,

when Parliament has created regulatory powers for the Council, the Council had not been availed itself of them in order to protect their interests and reflect their views.

## 5 Implications

### 5.1 Finance and Risk Implications

5.1.1 There will be a minor cost associated with carrying out the consultation and publish statutory notices which can be accommodated from existing budgets

### 5.2 Legal Implications including Data Protection

5.2.1 Having a policy which is clearly detailed and compliant with the legislation, fit for purpose and clear to Applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review, with associated costs in defending the same.

### 5.3 Human Resources Implications

5.3.1 None.

## 6 Recommendations

6.1 That Members review the attached policy documents and provide comments for consideration by Licensing Committee.

## 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p><i>BDC: Revenue - £75,000</i>  <i>Capital - £150,000</i> <input type="checkbox"/></p> <p><i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>District Wards Affected</b></p>	All indirectly
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All

## 8 Document Information

Appendix No	Title
1.	Draft Sex Establishment Policy
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Debs Cartwright, Solicitor (Contentious Team Solicitor)	Ext 2428

Report Reference –



**DRAFT**

**Sex Establishment  
Policy**

**2021-2024**





**We speak your language**

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**Polish**

**Mówimy Twoim językiem**

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**Slovak**

**Rozprávame Vaším jazykom**

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**Chinese**

**我们会说你的语言**

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## CONTROL SHEET FOR Sex Establishment Policy

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Sex Establishment Policy
Current status – i.e. first draft, version 2 or final version	First Draft
Policy author (post title only)	Solicitor/Licensing Manager
Location of policy (whilst in development)	S Drive, Governance, Legal,
Relevant Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council	Licensing Committee and Council
Date policy approved	
Date policy due for review (maximum three years)	
Date policy forwarded to Performance & Communications (to include on Extranet and Internet if applicable to the public)	23 <sup>rd</sup> July 2020

<b>SECTION</b>	<b>CONTENT</b>
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<b>1. Introduction and Scope</b>	
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- Declaration
- Consultation
- Local Area Profile
- Authorised activities
- Relationship with other legislation
- Rights of applicants
- Data sharing and data security
- Equality and Diversity

<b>2. Sex Establishment licences</b>	
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- General Principles
- Sex Shops
- Sex Cinemas
- Sexual Entertainment Venues

<b>3. Inspection and Enforcement</b>	
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- General Statement
- Inspections
- Enforcement

<b>4. Delegations</b>	
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<b>5. Contacts</b>	
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**Appendix 1** Consultees

**Appendix 2** Consultation results

**Appendix 3** Map of Administrative Boundary

**Appendix 4** Interpretations

**Appendix 5** Conditions

## 1. Introduction and Scope

1.1 This document sets Bolsover 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 Bolsover is a local government district in Derbyshire, England. It borders the districts of #####. We have a population of approximately #####.

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 M1 junctions, 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 Data Protection Regulation 2018 (GDPR). The Authority will also have regard to any guidance issued by the Home Office on this matter.

## **Equality and Diversity**

1.14 Bolsover 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 set out in the Act 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/her 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/she 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 (see page 8).

### **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, 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 Bolsover's Council Plan, the Bolsover 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 are inappropriate in the vicinity of:

*[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 a 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 are inappropriate in the vicinity of:

*[LIST BASED ON RESULTS]*

2.14 A majority of respondents agreed or strongly agreed that [sex cinemas are inappropriate 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 (page 10). 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 are inappropriate in:

- *[LIST]*

2.20 A majority of all respondents considered that sex shops are inappropriate in [any locality in Bolsover]. 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 in respect of their:

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

- sex
- sexual orientation

The Act itself includes a Public Sector Equality Duty. This is consistent with both the Council's policy referred to at 2.24 above and the duties imposed by the Act referred to in 2.24(b) above. 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, 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 a public authority to act in a way which is incompatible with a Convention right. The Council will pay 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) Licensing Act 2003**

The Licensing Act applied to certain “licensable activities” namely:-

- the sale by retail of alcohol
- the supply of alcohol by or on behalf of a club to a member
- the provision of “regulated entertainment” and
- the provision of late night refreshment

An Applicant may also be regulated under the Licensing Act 2003, insofar as they are carrying out licensable activities as described above. Where a condition conflicts with a condition in a Licensing Act 2003 premises licence, the more onerous shall apply.

**(f) 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 5 – Standard Conditions** (see page 22)).

**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, and
- 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 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, and
- has no convictions of a nature deeming him/her 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, and
- 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/she 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) to 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 7 days of the application being submitted to the Council:
- by publication of an advertisement in a local newspaper,
  - by displaying a notice of the application on or near the premises for 21 consecutive days, and
  - by sending a copy of the notice of application to the Chief Officer for Derbyshire Constabulary.

- 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 days 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 they 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 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 conditions can be found at [**Appendix 5**] below (see **page 22**).

### **Right of Appeal**

- 3.18 The applicant has a right 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 to the ultimate decision taken by the Council 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 or conditions 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 2.3 above (see page 8).

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 (see page 16) 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 for a licence where activity is low risk and/or temporary and 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 in the usual way.

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## Appendix 4

### 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 Bolsover District Council and authorised by the Council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- **The Council** means Bolsover 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.
- **Lap dance** means a type of entertainment in which a scantily clad person dances erotically close to a paying customer.
- **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 (the manager).
- **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.
- **Table dance** means a type of entertainment in which a scantily dressed person dances erotically at the table of paying customers or of individual members of the audience.
- **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.

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## Appendix 4

### Standard Conditions

#### Sexual Entertainment Venues

##### General

1. In accordance with Home Office guidance, where a condition conflicts with a condition in a Licensing Act 2003 premises licence, the more onerous shall 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 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 prevail.
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 shall 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 shall be kept on or at the premises and shall 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 shall only open to the public during the hours specified in the licence.

##### Conduct of the premises

8. Relevant entertainment shall only be performed by the dancer/performer: there must be no audience participation.

9. Dancers/performers shall 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 shall 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 shall be restricted to dancing and the removal of clothes. There shall 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 shall not be permitted to throw money at dancers/performers.
15. No customers shall be admitted to or be permitted to remain on the premises if they appear to be intoxicated or behave in an unruly manner.
16. Customers shall 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 shall not be permitted. This condition excludes fixed CCTV which is required as a condition of any licence
18. Customers shall not be permitted to be alone with a dancer/performer in any area to which the public do not have direct access.
19. There shall be a sufficient number of staff present inside the premises to supervise customers and dancers/performers.
20. Save for toilets available for use of both dancers/performers and customers, performers/dancers shall only be in the company of customers in an area open to the public.
21. Single-sex toilet facilities shall be made available for the exclusive use of performers/dancers.
22. Notices shall 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.

23. 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.
24. Dancers/performers shall not be permitted at any time to:
  - (1) Display or perform any act which simulates any sexual act;
  - (2) Touch a customer (save for the purposes of necessary and proportionate restraint and/or self-defence)
  - (3) Touch the breasts or genitals of another dancer/performer;
  - (4) Use sexually graphic language;
  - (5) Sit on or straddling of a customer;
  - (6) Climb onto furniture provided for customers or place their feet on a customer's seat;
  - (7) Remains in a state of undress once they have completed their act;
  - (8) Expose any part of their genitalia or anus at any time and wears (as a minimum) a non-transparent G-string;
  - (9) Engage in communication with customers in a way which could be reasonably interpreted as constituting solicitation or prostitution
25. During any performance of a table dance customers shall remain seated in an upright position against the back of their seat with their hands by their sides.

#### **External appearance and notices**

26. There shall be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, setting out 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”.**

27. The external appearance of the premises shall be approved by the Council in writing. Any change to the external appearance shall be approved by the Council in advance. The operator shall advise of any proposed change in writing (such notification to include a drawing of the existing and proposed street elevation). Approval by the Council, in writing, shall be obtained before work is undertaken.
28. Access to the licensed area of the premises shall 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.
29. Windows and other means by which the interior of the premises might otherwise be viewed into shall 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.

30. External signage shall only be illuminated or displayed during times when the premises are open.

### **Advertising**

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

### **Layout of the premises**

36. Access to ground floor premises by customers shall 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.
37. No access shall be permitted within the premises either to or from adjoining or adjacent premises save in the case of an emergency.
38. Save for routine maintenance work, any alterations shall be approved in advance by the Council in writing.
39. 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

40. The licensee or a person nominated by him/her to manage the premises on his/her behalf (“a responsible person”) shall be present at all times when the premises are open to members of the public.
41. 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 shall be notified to the Council within 14 days of such change. Any details or information relating thereto requested by the Council in writing shall be furnished within 14 days of such request.
42. Any person nominated by the licensee to act as a responsible person in his/her absence shall be:
  - a) provided with a copy of the conditions of the licence and have an understanding of them;
  - b) provided with written confirmation of such role, and
  - c) 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.
43. Any criminal charge or conviction relating to either the licensee or (in the event that the licensee is a body corporate) any director, company secretary, or any manager employed by the licensee shall be notified to the Council within 7 days of any such charge or conviction.
44. Control of all parts of the premises shall be retained by the licensee at all times: no part shall be let, nor licence granted nor possession surrendered of any part of the premises and the Council shall be notified 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.
45. No members of the public shall be admitted access to any part of the premises not approved by the Council for such access.
46. A record shall be made and retained on the premises of all workers, including their full names, dates of birth, current and previous address and any convictions recorded against them (subject to the provisions of the Rehabilitation of Offenders Act 1984).
47. A copy of the above mentioned record shall be made available for inspection on the request of an authorised Council officer or police officer.
48. No person under the age of 18 years shall be either admitted to the premises or employed to work in connection with the premises.
49. A “Challenge 25” age verification policy shall operate on the premises (persons who appear to be under the age of 25 shall be required to show proof of age prior to gaining admission to the premises) and a notice to this effect shall be prominently displayed on the premises.

50. Compliance with all relevant statutory and regulatory provisions shall be maintained at all times.
51. A draft code of practice for dancers/performers shall be submitted to the Council and to the police for approval. Following such approval, a copy of such code shall be provided to each dancer/performer and prominently displayed in areas to which they have access.
52. 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.
53. Price lists for both drinks and sexual entertainment shall be clearly displayed at each entrance to the premises, at each bar and at each table.
54. Suitable and sufficient training shall be provided to all staff, such training to be documented and documentation relating thereto made available for production to an authorised Council officer or police officer on request.
55. Both the licensee's name and that of any of the manager on duty shall be prominently displayed on the premises at all times when the premises are open to members of the public.

### **Safety and security**

56. A colour digital CCTV system, capable of recording, shall be 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).
57. CCTV cameras shall be located as designated by the Council on any site plan and no changes made to such location without the prior written consent of the Council and police.
58. CCTV systems shall be 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 to ensure constant and accurate time and date generation.
59. CCTV footage shall be retained and stored for a continuous period of 28 days.
60. Retained CCTV footage shall be downloaded or copied in such a way as to be in a viewable format and available for inspection or seizure on request of an authorised Council officer or police officer.
61. The licensee and any responsible person shall be 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 General Data Protection Regulations 2018 relating thereto.

62. CCTV footage shall be retained at all times in a secure environment and sufficient measures taken to prevent any unauthorised or unlawful viewing, tampering or copying, or other breach of any statutory provisions relating thereto.
63. A minimum of two Security Industry Authority registered door staff shall be present at all times when the premises are open to members of the public.
64. An incident log shall be retained and made available for endorsement by the licensee, any responsible person, 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 shall record 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; and
  - i) alleged breach of licence condition reported by any person.
65. A fire safety risk assessment shall be carried out in connection with the premises and any written assessment report produced therefrom shall be retained on the premises and made available for inspection by an authorised Council officer or police officer.
66. Good order shall be maintained on the premises at all times and all persons, on leaving and entering, shall conduct themselves in such a way as to cause no annoyance, alarm or distress to either residents in the vicinity or persons passing by.

#### **Dancer/performer welfare**

67. No dancer/performer shall be under the age of 18.
68. Proof shall be required that each dancer/performer has the right to work in the UK and have no convictions for offences of a dishonest, drug-related, violent or sexual nature. Evidence thereof shall be retained on the premises and made available for inspection by an authorised Council officer or police officer
69. Each dancer/performer shall be 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
  - (g) a record, signed and dated by the dancer/performer, shall be kept of the provision of the above documents.
70. Dancers/performers shall be provided with private secure dressing rooms, facilities to secure personal possessions and adequate sanitation facilities and copies of the documents listed in condition 66 above (see page 28) shall be displayed therein.
  71. At least one member of staff authorised to be responsible for the safety and welfare of dancers/performers shall be present and on duty at all times when licensable activities are taking place. This person should be the same gender and/or who identifies as the same gender as the dancer/performers.
  72. All booths and VIP areas used for private dancers shall be visible and accessible to supervision when licensable activities are taking place.
  73. 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.
  74. Dancers/performers shall only be in a state of undress in the licensable area when performing on stage or providing a table or lap dance.
  75. Any person present in the premises who may be observed from outside the premises shall be properly and decently dressed.
  76. There shall be 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.
  77. Customers and staff shall not interact whilst using any smoking area and dancers/performers shall be dressed in at least robes or coats of knee length whilst using such an area.
  78. During lap or table dancing performances customers shall remain seated, fully clothed, with hands clearly visible and either resting on the chair/sofa on which they are sat.
  79. In the event that a dancer/performer is invited to have a drink with a customer, the dancer/performer shall remain fully clothed during throughout.
  80. No dancer/performer shall be paid commission on the sale of drinks.

81. Dancers/performers shall be escorted to their transport by a SIA registered supervisor on leaving the premises.
82. Individual records shall be 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 such records shall be available for inspection by an authorised Council officer and police officers of the Licensing Authority on request.
83. Current or prospective dancers/performers shall not to be discriminated against and their legal rights shall be upheld in the course of both their employment and the employment process; this includes rights in relation to age, race, physical ability or affiliation with any organisation.
84. Save in the instance set out in condition 85 below, in the case of licensed premises which are a vessel, vehicle or stall, the vessel, vehicle or stall shall not be 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.
85. The requirements set out in condition 84 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.
86. No vessel, vehicle or stall shall be used for personal solicitation, touting or advertising.

#### **Variation of conditions**

87. The Council may, at the time of granting or renewing the licence, waive, modify or vary these conditions as it sees necessary.
88. The licensee may apply to the Council to vary any of the terms of the licence.
89. 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.

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## **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 or police officer.

#### **Hours of opening**

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

#### **Use of the premises**

7. The premises shall be used solely for the exhibition of films.
8. Person to person solicitation or touting from the premises shall be conducted in such a way as not to cause concern to the public or the licencing authority. Literature relating to the premises shall contain no images or text of a sexually explicit, obscene or offensive nature.

9. No part of the premises shall be used for the purposes of solicitation of or actual prostitution.

### **External appearance**

10. A notice shall be displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, setting out 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 shall be approved by the Council in writing. Any change to the external appearance shall be approved by the Council. The Council shall be notified in writing (such notification to include a drawing of the existing and proposed street elevation) of any proposed change and written consent to that change shall be obtained before any work is undertaken.
12. The frontage of the licensed premises shall be of such a nature as to ensure that the part of the premises where relevant entertainment is provided is not visible to passing members of the public when the door(s) to the premises are opened.
13. Any illuminated external signage shall only be lit and any portable signage displayed whilst the premises are open and licensable activities are taking place.

(N.B. Proposed alteration of RMBC’s terms to match the provision for S.E.V.s in light of “necessity and proportionality” test in H.R.A.).

### **Advertising**

14. No unsolicited written, visual or auditory advertising material, posters, signage or window display shall be sexually explicit or otherwise designed in a way likely to cause a detriment to the amenity or character of the local vicinity.
15. Unsolicited written, visual or auditory advertising shall be approved in advance of its use by the Council in writing.
16. No verbal promotion, touting or advertising of the premises shall be permitted and nor shall staff or subcontractors be permitted to direct potential customers by any means of transport connected with the premises.
17. No distribution of flyers or leaflets advertising or promoting the premises is permitted other than at times that the premises are open and licensable activities are taking place and at those times only within a 100 metre radius

of the premises. All such flyers and leaflets shall be removed from the highway within that radius by 5am. Flyers shall not be distributed to any person under the age of 18 years.

18. The content and distribution of flyers must not be such as to cause public offence.
19. Flyers must not be distributed by or to persons under the age of 18 years.

### **Layout of the premises**

20. Access to ground floor premises by customers shall 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.
21. No access shall be permitted through the premises to any other adjoining or adjacent premises except in the case of emergency.
22. 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.
23. Where works necessitate the premises being closed for a period of time the Council must be given notification in writing of such action and the premises shall not reopen for the purpose of the licence, until the Council has been given written notice of the satisfactory completion of the works.
24. All parts of the premises shall be well maintained and kept in a clean condition to the satisfaction of the Council.

### **Management of the premises**

25. 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.
26. The licensee, or responsible person nominated by the licensee in writing for the purpose of managing the venue shall have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such written nomination shall be produced on demand to an authorised Council officer or police officer.
27. Any nominated person under paragraph 25 above shall be:



- (a) provided with a copy of the conditions relating to the premises and shall have an understanding of them; and
  - (b) provide with a copy of the written nomination referred to in paragraph 25 above (page 33) at all times whilst present on the premises.
28. Any criminal charge or conviction relating to either the licensee or (in the event that the licensee is a body corporate) any director, company secretary, or any manager or responsible person employed by the licensee shall be notified to the Council within 7 days of any such charge or conviction.
29. 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.
30. 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.
31. 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).
32. A copy of staff or workers' records as above shall be produced on demand to an authorised officer of the Council or police officer.
33. No person under the age of 18 years shall be admitted to the premises.
34. 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.
35. No person under the age of 18 years shall be employed in any capacity.
36. The licensee shall notify the Council immediately in the event of any changes to the management or operation of the premises.

### **Safety and security**

37. A colour digital CCTV system with capability to record, with time and date displayed shall be maintained and operational at the premises at all times when licensable activities are being carried out and at any other times when members of the public are present on the premises, such CCTV system to cover all areas occupied by members of the public save for toilets, but including corridors, stairways and car parks.
38. CCTV cameras shall be located as identified by the Council on the site plan and there shall be no adjustments to such locations without the prior written consent of Derbyshire Police and the Council.

39. The CCTV system shall provide a resolution quality sufficient to display and record physical identification of all persons, activities and vehicle registration numbers of vehicles within any car park to the premises.
40. Recorded CCTV footage shall be maintained and stored for a continuous period of 28 days.
41. Where CCTV is recorded onto a hard drive system, all discs produced (there from) shall be in a format capable of being played and viewed on a standard DVD player or computer.
42. The licensee and any responsible person shall be 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 General Data Protection Regulations 2018 relating thereto.
43. Material recorded by CCTV equipment shall be stored in a secure environment to prevent tampering and unauthorised viewing.
44. Downloads of CCTV recordings shall be provided to an authorised Council officer or police officer immediately upon their lawful request for the same or, where this is not possible, as soon as reasonably practicable. In the latter case, such recordings shall be preserved until such downloads are provided.
45. Council officers shall be given access at all times public are present to carry out inspections pursuant to the licensing provisions.
46. Regular checks shall be carried out in the auditorium during screenings and a record maintained of such checks, available for inspection upon the request of an authorised Council officer or police officer.
47. A register shall be maintained on the premises of all incidents relating to refusals to allow access or continued access or incidents involving disorder involving members of the public.
48. The licensee shall ensure that a fire safety risk assessment is carried out for the premises and that a copy of the same is retained at the premises and made available for inspection by an authorised Council officer or Fire Authority officer immediately on request.
49. Good order shall be maintained on the premises at all times and all persons when entering or leaving shall conduct themselves in a manner so as not to cause nuisance, alarm or annoyance to persons in the vicinity.
50. An incident log shall be retained and made available for endorsement by the licensee, any responsible person and all members of staff at the premises and for production to an authorised Council officer or police officer on request and such log shall record 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) visit by police or Council officer or emergency services employee;
- (h) alleged breach of licence condition reported by any person.

**Vessels, vehicles and stalls**

- 51. Save for the purposes of storage, licensed vessels, vehicles or stalls shall not be moved without the prior written approval of the Council. An application for a proposed move shall be submitted no later than 28 days prior to that move and such fee as the Council deems reasonable shall be payable.
- 52. Any location intended for storage shall be specified at the time of a licence and no vessel, vehicle or stall shall be stored at any location other than that specified in the licence.
- 53. Licensed vessels, vehicles or stalls shall be used for no other purpose than that specified in the licence.

**Variation and conditions**

- 54. The Council may, at the time of granting or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
- 55. The licensee may apply to the Council to vary any of the terms of the licence.
- 56. The licensee shall advertise any application to vary conditions of licence in the same manner as an application for the grant, renewal or transfer of a licence.

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## **Standard Conditions**

### **Sex Shops**

#### **General**

1. Unless stated otherwise, the licence hereby granted shall 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 licenced 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 defined 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 prior to such change.

#### **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 or police officer.

#### **Hours of Opening**

6. The premises shall not open to the public other than during the hours specified in the licence except with the written consent of the Council.

#### **Conduct of the premises**

7. The premises shall be used primarily for the purpose of the sale or hire of goods by retail.
8. Any personal solicitation or touting from the premises employed for the purpose of solicitation shall be conducted in such a way as to avoid

likelihood of offence to the public and material used shall contain no images or text of a sexually explicit or obscene or offensive nature.

9. No part of the premises shall be used by prostitutes.
10. Merchandise displayed for sale, hire, exchange or loan within the premises shall be clearly marked to display the price being charged.
11. Printed material offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be displayed in a conspicuous location within the premises.
12. No film or other recorded material shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
13. No film or other recorded material shall be exhibited save for the purpose of advertising on a loop system or allowing a customer a short preview being no longer than 3 minutes in length.
14. Promotional material exhibited shall comply with current legislation, including section 12 of the Recordings Act 1984 as amended.

#### **External appearance**

15. There shall be a notice displayed inside each entrance or doorway to the premises, clearly visible, stating the following words and no others:

**“STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE**

**A “Challenge 25” policy is operated on these premises**

**Persons who appear to be under the age of 25 will be required to show proof of age, failing which they will be required to leave.”**

16. 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 in advance. The licensee shall advise the Council of any such proposed change in writing and include drawings of the existing and proposed street elevation.
17. The frontage of the licensed premises shall be of such design as to ensure that the interior of the premises are not visible and that no part of the interior where relevant entertainment takes place shall not be visible when the doors to the premises are open.
18. External signage shall only be illuminated and moveable signs displayed during such times as the premises are open and licensable activities taking place.

## **Advertising**

19. The use of all written, visual or auditory advertisement material, including posters, signage and window displays must be approved in advance by the Council and shall contain no obscene or sexually explicit images or text or language or otherwise be such as to be detrimental to the amenity or character of the local vicinity.
20. Any distribution of flyers is conducted in such a way as to avoid likelihood of offence to the public and that such distribution is only carried out by and to persons aged 18 years or over.

## **Layout of the premises**

21. Access to ground floor premises shall only be through two or more doors placed consecutively, so arranged as to ensure that when a person enters or leaves the premises the interior is not visible from the exterior and the first entry doors shall be fitted with a device which ensures their automatic closure. Such device shall be maintained so as to be in good working order at all times.
22. No access shall be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
23. Save for routine maintenance works, no alterations (including temporary alterations) shall be made to the structure or installations on the premises without the prior written consent of the Council.

## **Management of the premises**

24. Where the license is a body corporate, be it incorporated or not, any change of director, company secretary or other person responsible for the management of that body shall be notified to the Council within 14 days of such change. On written request from the Council of details of change of personnel, such details shall be provided within 14 days of such request.
25. The licensee or a responsible person nominated by him/her in writing for the purpose of managing the venue shall have personal responsibility for and be present on the premises at all times the premises are open to the public. Such written nomination shall be produced on demand to an authorised Council officer or to a police officer.
26. The person nominated by the licensee under the above paragraph: shall be:
  - a) provided with a copy of the conditions relating to the premises and have an understanding of them; and
  - b) able to produce written evidence of such nomination referred to above at all times whilst in charge of the premises.

27. Any criminal charge or conviction relating to either the licensee or (in the event that the licensee is a body corporate) any director, company secretary, or any manager or responsible person employed by the licensee shall be notified to the Council within 7 days of any such charge or conviction, with details of its nature, date and sentence imposed.
28. The licensee shall retain control of all parts of the premises and shall not let, licence or part with possession of any portion. The Council shall be notified in writing immediately in the event of any part of the premises being affected by termination of a lease or other event affecting the licensee's control of the premises.
29. No member of the public shall be admitted to any part of the premises not approved by the Council for such admittance.
30. A written record of all employees on the premises shall be maintained, to include full names, dates of birth, current and previous address and any convictions recorded against them (subject to the provisions of the Rehabilitation of Offenders Act 1984).
31. A copy of the records referred to in the above paragraph shall be produced on demand to an authorised Council officer or a police officer.
32. No person under the age of 18 years shall be admitted to the premises.
33. A "Challenge 25" age verification policy shall be in operation at all times on the premises, with persons appearing to be under the age of 25 being required to show proof of age prior to admittance.
34. No person under the age of 18 years shall be employed on the premises in any capacity.
35. An incident log shall be retained and made available for endorsement by the licensee, responsible person and any member of staff at the premises and for production to an authorised Council officer or police officer on request and such log shall record 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) visit by police or Council officer or emergency services employee;
  - (g) alleged breach of licence condition reported by any person.

### **Vessels, vehicles and stalls**

36. Save for those which are habitually moved for storage as provided for in the licence, premises consisting of a vessel, vehicle shall not be moved from

the location specified in the licence unless a written application is made to the Council and the Council has issued written consent. Such application shall be submitted at least 28 days prior to the intended move and the Council may require payment of such fee as it deems appropriate in respect of such application.

37. Such premises as described above shall not be used for any purpose other than those set out in the licence.

#### **Variation of conditions**

38. The Council may, at the time of the granting or renewal of the licence, waive, modify or otherwise vary these conditions as appropriate.
39. The licensee may apply to the Council for variation of any of the terms of the licence.
40. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as an application for the grant, renewal or transfer of the licence.

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