



LICENSING POLICY FOR SEX ESTABLISHMENTS

Incorporating Guidance and Standard Conditions

2014-2019

The East Riding of Yorkshire Council as the 'Licensing Authority' has adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, Policing and Crime Act 2009 Section 27 with regard to sex establishments and will apply this policy document as guidance for sex establishments in its area to ensure consistency of decision making in relation to applications, Hearings and regulation of licences. However, each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration

This policy will become effective on 2 April 2014.

1. Introduction

- 1.1 The Licensing Authority is responsible for developing and implementing this licensing policy.
- 1.2 The creation of this policy allows for the unification of the regulation of 'sex establishments' (sex shops and sex cinemas), which have been previously adopted by the Authority.
- 1.3 East Riding of Yorkshire Council adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that it can regulate sex shops, sex cinemas and sexual entertainment venues in its area which enables it to regulate lap dancing and similar venues under section 27 of the Policing and Crime Act 2009 In this policy, these are referred to as "sex establishments" unless otherwise indicated.

2. Purpose and aim of the policy

- 2.1 The policy is intended to set out clear and concise guidance, procedure and principals for the benefit of the Licensing Authority, the community, applicants and other relevant organisations.
- 2.2 The overarching objectives of the policy are to;
 - promote the Council's Corporate visions and values,
 - protect the rights, public health and safety of the workers, the general public, , residents, small businesses, minority and vulnerable groups, and
 - to ensure consistent and transparent decision making.

- 2.3 The policy also contains standard conditions, which will be applied to the different types of sex establishment, which forms part of any licence granted.
- 2.4 In developing this policy the Licensing Authority has had regard to the legal requirements of the 1982 and 2009 Acts and its duties under:
- (a) section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the East Riding of Yorkshire;
 - (b) the Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations set out and to particularly consider the impact of regulations on small businesses; and
 - (c) the Provision of Services Regulations 2009 to ensure requirements are:
 - non-discriminatory
 - justified by an overriding reason relating to the public interest
 - proportionate to that public interest objective
 - clear and unambiguous
 - objective
 - made public in advance, and
 - transparent and accessible.
- 2.5 Where it is necessary for the Authority to depart substantially from this policy, clear and compelling reasons for doing so will be given.

3. **Scope**

- 3.1 This policy relates to any premises wishing to operate as a **Sex Shop, Sex Cinema or Sexual Entertainment Venue** in the East Riding of Yorkshire.
- 3.2 Not all premises will automatically require a licence. Where there is an exemption within the legislation this has been set out in this policy document.
- 3.3 Consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for Sex Establishment licences.
- 3.4 When considering applications for a Sexual Entertainment Venue licence, the Licensing Authority should also have regard to the Home Office guidance issued in March 2010 entitled "Sexual Entertainment Venues – Guidance for England and Wales."

4. **Policy and Procedures Statement**

- 4.1 This policy supersedes all previous policies and is effective from **2 April 2014**. The Policy is formally reviewed every five years.
- 4.2 The Council does not take a moral stance through the adoption of this policy. It recognises that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is the role of the Licensing Authority to regulate such premises in accordance with the law.
- 4.3 Any significant future amendment to this policy will only be implemented after consultation with the relevant bodies.

For the purpose of this section, any significant amendment is defined as one that:

- (a) is likely to have a significant financial effect on the licence holders, or*
- (b) is likely to have a significant procedural effect on the licence holders, or*
- (c) is likely to have a significant effect on the community.*

4.4 Any amendments to this Policy to correct minor administrative errors or reflect urgent legislative changes as deemed necessary may be authorised by the Director of Environment and Neighbourhood Services in consultation with the relevant Portfolio holder without the need for a full public consultation and issue a revised copy of the policy.

5. Sex Establishment Licensing

Types of Sex Establishment

5.1 There are three types of sex establishments; Sex Shops (including mail order), Sex Cinemas and Sexual Entertainment Venues (SEV's).

5.2 Not all of these premises automatically require a licence. This is due to certain provisions and exemptions within the legislation. The criteria for requiring a licence is shown below.

5.3 Sex Shop

The legislation defines a Sex Shop as:

Any premises, vehicle, vessel or stall used for a business, which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating relevant sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity; or acts of force or restraint which are associated with sexual activity, unless an exemption applies.

5.3.1 No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

5.3.2 *Sex articles* are defined as:

- anything made for use in connection with, or for the purpose of stimulating or encouraging sexual activity; or acts of force or restraint which are associated with sexual activity; and
- to any article depicting sexual activity comprising written or visual material such as sex magazines or books. Or visual or audio recordings which is concerned primarily with the portrayal of, or primarily deal with or relates to, or are intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

5.3.3 DVD's classified as R18 by the British Board of Film Classification must only be sold in sex shops.

5.4 Sex Cinema

5.4.1 The legislation defines a Sex Cinema as:

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, concerned with relevant images by whatever means produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity; or acts of force or restraint which are associated with sexual activity; or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

This does not include a dwelling-house to which the public is not admitted.

5.4.2 No premises shall be treated as a sex cinema by reason only -

- (a) if they are licensed under Section 1 of the Cinemas Act 1985, of their use or purpose for which a licence under that section is required; or if they are licensed under Section 1 of the Cinemas Act 1985, of their use or purpose for which a licence under that section is required; or
- (b) of their use for an exhibition to which Section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of that Act.

5.5 Sexual Entertainment Venue (SEV)

5.5.1 The legislation defines a Sexual Entertainment Venue as:

Any premises at which ‘relevant entertainment’ is provided before a live audience for the financial gain of the organiser or the entertainer unless an exemption applies.

5.5.2 “Relevant entertainment” is defined as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).” An audience can consist of just one person (e.g. where entertainment takes place in a private booth).

5.5.3 In deciding whether entertainment is “relevant entertainment” the Licensing Authority will judge each case on its merits, but this will generally apply to:

- lap dancing
- pole dancing
- table dancing
- strip shows
- peep shows
- live sex shows
- topless bars
- premises where private entertainment booths as defined in paragraph 5.5.2 are present

This list is not exhaustive and adult entertainment not classed as “relevant entertainment” may still require regulation under the Licensing Act 2003.

5.5.4 Section 27 of The Policing and Crime Act 2009 defines the “display of nudity” as:-

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) in the case of a man, exposure of his pubic area, genitals or anus.

5.5.5 The following are not sexual entertainment venues for the purposes of this Schedule:

- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

Premises providing relevant entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003.

(c) premises specified or described in an order made by the relevant national authority.

5.5.6 References to the use of any premises as a sexual entertainment venue are to be read as references to their use by the ‘organiser’.

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

- (a) the relevant entertainment; or
- (b) the premises;

5.5.7 “premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted; and it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

6. Waivers

6.1 Applications can be made to waive the requirement for a sex establishment licence.

6.2 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sex Shops and Sex Cinemas, except in extreme circumstances considered by the Licensing Act 2003 Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).

6.3 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sexual Entertainment Venues, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

6.4 However waivers may be granted to;

- Book shops, including shops where sale of DVD's and CD's are present
- Sexual Health Clinics
- Cases where the requirement for a licence is considered by the Licensing Authority as borderline i.e. a nude scene in a burlesque show
- Educational Establishments as part of a recognised educational curriculum

Each application for a waiver will be considered on its individual merits.

7. Relevant Localities

7.1 In considering the characteristics of a locality the Licensing Authority will particularly take account of the density and proximity of:

- schools, nurseries, crèches and other similar educational or recreational facilities attended by children,
- cemeteries, parks and children's play areas,
- residential and sheltered accommodation,
- religious and community buildings,
- alcohol or entertainment licensed premises,
- other retail units (and their uses).

8. Numerical Limits

8.1 The Licensing Authority can refuse applications for new or renewed licences where the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which is considered by the licensing authority as appropriate for that locality

8.2 The Licensing Authority has not set numerical limits in specific locations and will consider applications made on their own merits and on a case-by-case basis.

9. Application Process

9.1 Applications must be submitted to the Licensing Authority together with the application fee, applications may be submitted online at www.eastriding.gov.uk. The application form can be used for the grant, variation, transfer and renewal of an application.

- 9.2 A variation application relates only to proposals to change the hours of operation of the premises and is subject to the Appeals process. Structural changes may need a new application to be made.
- 9.3 Applicants should be aware that planning permission to operate a premises as a sex establishment may not be in place. Planning is a separate process to obtaining a sex establishment licence. Although not mandatory, the Licensing Authority would recommend that potential licence applicants ensure that the appropriate planning permission is in place prior to submission of an application for a licence.
- 9.4 The application must be copied by the applicant to Humberside Police within 7 days after the date the application was made to the Licensing Authority unless the application is made electronically in which case the Licensing Authority will ensure that a copy is served on Humberside Police.
- 9.4 The Licensing Authority will notify in writing and seek comments from:
- The relevant local ward councilors
 - The relevant Parish Council (where the premises is located)
 - Director of Children , Adults and Family Services, ERYC
 - Humberside Fire and Rescue Service
 - Planning Authority , ERYC
 - Any other relevant persons/organisation's deemed appropriate by the Council depending on the application made.
- 9.5 Applicants must provide their name, address and, where the applicant is an individual, their age, plus the premises address and the proposed licensed name of the premises.
- 9.6 Applicants must, at the time of submission of a new grant or variation application where relevant, provide a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
- 9.7 All new applications made must include:-
- A site plan (scale 1:500) clearly outlining the locality in which the proposed establishment will be situated. The plan should clearly identify the proposed sex establishment by marking the site/premises boundary with a red line.
 - A plan of the premises (scale 1:100) showing the part(s) of the premises that it is proposed to license. All areas requiring to be licensed should be outlined in red on the plan. In the case of Sexual Entertainment Venues such plan must outline the area that relevant entertainment will take place.
 - Full licence fee and completed application form. This may be rejected and returned to the applicant if all the relevant boxes are incomplete or additional documentation not enclosed.
 - Passport photographs, dates of birth and private addresses of all staff and directors employed in the licensed premises. The reverse of the photograph to contain name and date of birth and signature of applicant.

The application must be complete and all information provided otherwise it may be rejected.

Renewal applications must include an application form, appropriate fee and a declaration statement that no changes have been made to the plan or operation of the premises in relation to the management of that premises.

- 9.8 Applicants for Sexual Entertainment Venues must also submit a copy of their “House Rules”. Such House Rules must contain the required conduct of performers which shall include matters containing conditions of licence, i.e. no touching, no meeting customers, no sex acts, no giving or taking phone numbers (including exchange of business cards).
- 9.9 Such House Rules will form part of the licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.
- 9.10 Applicants must make provision for all performers to sign documentation to confirm their knowledge of and acceptance to adhere to the House Rules. Such documentation must be retained for the duration of the performers’ employment and for a further 6 months from the date they last worked at the premises, whether they are employed directly or freelance.
- 9.11 An officer of the Licensing Authority may, as part of the application process, inspect the premises to determine compliance with the sex establishment conditions set out in Appendix A and B and visit the locality of the premises to establish whether there are any characteristics of the locality, which may require consideration by the Licensing Act 2003 Committee. A report will be prepared for submission to the next available Sub Committee and the applicant will be informed in writing of the referral of the application to the Sub Committee and notified of the date when the application will be considered.

Advertising the Application

- 9.12 Applicants (other than applicants for variation of licence) must give public notice of the application (including renewal application) by publishing an advertisement in a local newspaper circulating in the Authority’s area. This must be published within 7 days after making the application to the Licensing Authority and the representation end date confirmed.
- 9.13 If the application relates to a premises then there is an additional requirement for an A4 Notice of the application to be prominently displayed for 28 days from the date the application is served on the Licensing Authority on or near the premises where it can be conveniently read by the public. The notice, the form of which is prescribed by the Licensing Authority, must contain certain information.
- 9.14 Applications are advertised by the applicant for 21 days on the premises subject of the application however the Licensing Authority will advertise the application on the Council’s website for the full 28 days representation period.
- 9.15 If an application is for the renewal of a sex establishment licence, the premises can continue to operate past the licence expiry date; provided that the renewal application has been submitted to the Licensing Authority before the licence expires. The Licensing Authority will notify the applicant of the decision.
- 9.16 **Renewal applications:** When considering a renewal application the Licensing Authority may take into account:

- Any perceived adverse impact arising from the operation of the premises;
 - Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.
 - Compliance history of the premises
- 9.17 Renewal applications are subject to the same advertising requirements specified in the policy.
- 9.18 Whilst the Act does not stipulate a timescale for hearing applications where objections have been submitted and accepted, the Licensing Authority aims to determine an application within 20 working days, from the end of the 28 day representation period
- 9.19 **Tacit Authorisation**
- The term “tacit authorisation” relates to online submission of applications. Tacit authorisation means that if the timescale set for determining applications is exceeded any application will be deemed acceptable (granted) and Tacit Authorisation given. However this does **not** apply to Sex Establishment licences. This means that the applicant must wait for the Licensing Authority to determine the application before they can operate a sex establishment.
- 9.20 Help in completing the application form can be obtained from the Council’s website on www.eastriding.gov.uk or from the by e mail to licensing@eastriding.gov.uk.

10. Objections to licence applications

- 10.1 Unlike some other licensing regimes, a wide range of people can raise objections about sex establishment licence applications, renewals or transfers.
- 10.2 Humberside Police is a statutory consultee for all sex establishment applications.
- 10.3 Although applicants are only required to provide notice of the application to the police, the Council will publish a list of current sex establishment premises applications on the Council’s website and on the public register, to allow the public to view basic details and provide a contact number for viewing the application.
- 10.4 Objectors should limit their objection to matters, which are relevant to the statutory grounds for refusal as set out in the 1982 Act.
- 10.5 Objections must be made in writing (email is acceptable), within the representation period and should include the following:
- the name and address of the person or organisation making the objection
 - the premises to which the objection relates
 - the proximity of the premises to the person making the objection; a sketch map or plan may be helpful to show this
- 10.6 The reasons for making the objections, which are clearly set out in relation to the grounds for refusal.
- 10.7 The grounds relevant to the majority of objectors are as follows:

- that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity of the premises, vehicle or vessel or stall in respect of which the application is made.
- 10.8 The Director of Environment and Neighbourhood Services is authorised to reject any objections received by the Licensing Authority, which do not relate to the grounds set out in the Act. Where objections are rejected, the objector will be given written reasons.
- 10.9 Objectors can include residents’/tenants’ associations, community associations and trade associations. Councillors and MPs may also raise objections. Elected Councillors may represent interested parties, providing they do not also sit on the Licensing Act 2003 Committee.
- 10.10 The Licensing Authority will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by the Director of Environment and Neighbourhood Services and not on the basis of any political judgement.
- 10.11 A report will be made to the Licensing Act 2003 Sub-Committee determining the application (if appropriate), indicating the general grounds of the representation
- 10.12 *A **vexatious objection** is generally taken to be one, which is repetitive, without foundation or made for some other reason such as malice. A **frivolous objection** is generally taken to be one that is lacking in seriousness.*
- 10.13 Valid objections will be considered by a Licensing Act 2003 Sub-Committee at a Hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing Act 2003 Sub-Committee’s hearings procedures.
- 10.15 The Council shall hold a hearing before:
- refusing to grant a licence
 - refusing to renew a licence
 - refusing to transfer a licence
 - Revoking a licence
- 10.16 When considering an application the Council will have regard to the following:-
- All written representations made by responsible authorities or members of the public
 - All representations made in person at the hearing
 - The proximity of residential premises, including any sheltered housing and accommodation of vulnerable people;
 - The proximity of educational establishments;
 - The proximity of places of worship;
 - Access routes to and from schools, play areas, nurseries, children’s centres or similar premises in proximity to the premises
 - The proximity of shopping centres

- The proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
- Any current planning considerations
- Whether there is planned regeneration of the area.
- The proximity of other Sex Establishments
- the character of the locality in which the premises are situated
- the use to which any premises in the vicinity are put
- the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

This list is not exhaustive

11. Determination of applications- Grounds for granting or refusing an application

- 11.1 Case-law has determined that the Licensing Sub Committee may not refuse a sex establishment licence solely on the ground that the establishment may cause offence. *R v Newcastle upon Tyne City Council ex parte The Christian Association Institute* [2001] B.L.G.R. 165
- 11.2 The local Licensing Authority must refuse the licence on any of the grounds listed in paragraph 12 (1) of the schedule, as follows:

The Licensing Authority is **NOT** permitted to grant a licence to a:

- (a) person under the age of 18 years;
- (b) person who is for the time being disqualified from holding a licence following revocation of such a licence;
- (c) person who had, within a period of 12 months immediately preceding the date when the application was made, 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;
- (d) person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
- (e) body corporate which is not incorporated in the United Kingdom.

There is no right of appeal against refusal on these grounds.

- 11.3 The Licensing Authority may refuse to grant, vary or renew the licence where any of the following matters mentioned in paragraph 12 (2) and (3) applies:
- a) The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason.
 - b) That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself.

Members and officers will make diligent enquiries in these respects.

- c) That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Licensing Authority consider is appropriate for that locality.
- d) That the grant or renewal of the licence would be inappropriate, having regard to the
 - i. character of the relevant locality; or
 - ii. use to which any premises in the vicinity are put; or
 - iii. layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

An application for the transfer of a licence can only be refused by virtue of bullet points (a) and (b) above.

11.4 If none of the above applies to the applicant and no objections have been received and there are no other statutory grounds for refusal, including that the application does not exceed any permitted numbers (where restrictions are in place), the application will be granted by way of delegated authority to Officers.

11.5 However if any objections have been received, or if there are concerns such as regarding the characteristics of the locality, or matters which do not comply with the licensing policy then the application will be referred to the Licensing Act 2003 Sub-Committee for a Hearing of the application.

11.6 The Licensing Authority will not apply a rigid rule to its decision-making or set numerical limits for specific locations of the East Riding of Yorkshire but deal with each matter on its own merits and on a case-by-case basis.

11.7 The Licensing Authority will give clear reasons in writing for its decisions.

11.8 Where the council refuse to grant, renew or transfer a licence, it shall, provide in writing a statement of the reasons for its decision within 7 calendar days of the hearing as a Notice of Determination.

11.9 When issuing a Sex Establishment Licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to such restrictions specific to that licence as specified at the time that the licence is issued or granted.

11.10 In addition to this the council has the power to prescribe standard conditions applicable to all licences for sex establishments.

11.11 It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.

11.12 Details of the standard conditions relating to each type of licence are contained in **Appendix A** of this document. Should these standard conditions be amended at any time in the future, they would apply to all licences already issued as if the conditions had been in place at the time they were granted.

11.13 All standard conditions will be reviewed every three years as part of the full Policy review.

11.14 Length of licence

The Licensing Authority will, unless there are exceptional reasons otherwise, grant licences for the duration of one year to provide certainty to those operating businesses.

12. Appeals

- 12.1 If an application is refused following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal.
- 12.2 Appeals must be made to the local magistrates' court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision in writing. It should be noted that a fee may be payable to the magistrates to lodge such an appeal.
- 12.3 An appeal can be made in the following circumstances:
1. Refusal of an application for the grant, renewal or transfer of a licence.
 2. Refusal of an application to vary terms, conditions or restrictions on or subject to which any licence is held.
 3. A grievance relating to any term, condition or restriction on or subject to which a licence is held.
 4. Revocation of a licence.

A person wishing to appeal against a Council decision on a Sex Establishment Licence is strongly advised to seek assistance from a Solicitor, prior to commencing action in a Court of Law.

- 12.4 An appeal cannot be made against the Licensing Authority's decision if the application was refused on the grounds that:
- that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the Licensing Authority consider is appropriate for that locality; or
 - the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.

The Magistrates' court will determine the appeal application.

13. Fees

- 13.1 The Act and European Services Directive permits the Licensing Authority to set a reasonable fee that is proportionate to the effective cost of the processes associated with that authorisation procedure and in line with regulations and any relevant case law.
- 13.2 The appropriate fees for sex establishment licence applications are published on the Council's website. Application fees must be paid in full at the time of submission of the application.
- 13.3 The setting and determining of fee levels is delegated to the Licensing Act 2003 Committee
- 13.4 The fee set includes the costs of administering and authorising the application, compliance visits, advice and guidance, checking historical records, consultation, policy development and hearing/legal costs. This list is not exhaustive.
- 13.5 Existing fees must be reviewed and determined each year by the Committee to meet the cost of processing and authorising an application under the legislation and any related

compliance costs. Fees should not be used to make a profit or to deter certain business types from operating within an area.

- 13.6 Any surplus made from fees or deficit in income in relation to these licensing fees will be carried forward to future years on a 3 year rolling programme and the fees reviewed and re determined accordingly.
- 13.7 In light of the R (Hemming and others) v Westminster City Council 2012 Judgement, the licence fee set will relate to the cost of the licensing authorisation process and will not be used to support enforcement activity against unlicensed sex establishments with no authorisation in place. Any activity taken against unlicensed operators will be funded through existing council general funds or recovery of court costs, such activity against unlicensed operators will include prosecutions.

14. Conditions

- 14.1 Licensing authorities are permitted to prescribe standard conditions as the default for all licences granted. Conditions play an important role in attaining the objectives of the legislation and in achieving the standards, which the Licensing Authority demands of licensed premises. These amount to a code of conduct for management and a clear set of rules to which staff adhere.
- 14.2 *Appendix A* shows the standard conditions which relate to sex shops, *Appendix B* for sex cinema's and *Appendix C* for Sexual Entertainment Venues
- 14.3 Where the standard conditions are not added in full as the default then clear reasons will be given as to the reason behind the departure in each specific case.

15. Consultation and engagement

- 15.1 The Council consulted on this policy between 1 September 2013 and 31 January 2014 2013 and it was formally approved by the Council on 2 April 2014
- 15.2 This licensing policy has been drawn up in consultation with residents and businesses in East Riding of Yorkshire Council; Town, Parish Councils; existing Sex Establishment Licence holders; the statutory responsible authorities under the Licensing Act 2003; holders of premises licences under the Licensing Act 2003 in the County; and other organisations and persons as appear to the Licensing Authority to be affected by licensing matters covered by this policy.
- 15.3 Details of applications and objections which are referred to the Licensing Act 2003 Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. It should, however, be noted that certain items or information may have to be excluded from the public domain as permitted by Local Government Act 1972.
- 15.4 The names and address of objectors will not be disclosed to applicants or published in public reports in accordance with Section 8 (17) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 unless consent to do so has been given by the objector. Such details will be made available to Members on the Licensing Act 2003 Sub-Committee.

- 15.5 The policy will be regularly reviewed and monitored to ensure that it is relevant, effective, and up to date and achieving what it set out to do.
- 15.6 This will be achieved by monitoring the outcome of Hearings, Appeals through the Magistrates courts, developments in legislation, by having regard to relevant case law, local needs and economic impacts.
- 15.7 The Council will ensure that Members and Council Officers involved in the development and implementation of this policy, the compliance/enforcement of the licensing regime and day-to-day operation of the licensing service receive regular and appropriate training on the legislation and policy. The Licensing Manager will facilitate this training.

16. Communicating the policy

- 16.1 This policy is available electronically on the Council's website www.eastriding.gov.uk
- 16.2 The adoption or any amendment of the policy will be communicated to the community by way of press release and on the Council's website. Persons having been actively involved in any consultation on the policy will be notified directly.

17. Breaches and non-compliance/enforcement

- 17.1 In line with its administrative functions under the legislation, the Licensing Authority will carry out a 'compliance visit at the time the application is made or at the time that the licence is renewed each year. Additional formal inspections may be carried out if exceptional circumstances occur relating to complaints or intelligence is received of unlawful activity or breach of licence conditions.
- 17.2 It is recognised that Sex Entertainment Venues are also regulated by other legislation due to the nature of those operations, and therefore may require more frequent compliance visits by Licensing Officers, particularly during the hours of the night time economy.
- 17.3 The responsibility for the overall regulation of Sex Establishment licensing lies with both officers of the Licensing Service and Humberside Police.
- 17.4 The Licensing Authority will operate a proportionate, transparent and reasonable compliance and enforcement regime reducing burdens on the licensed trade by means of advice and education. Where it is appropriate to do, so regard will be given to the BRDO Regulator's Code July 2013 when carrying out its regulatory functions.
- 17.5 Any breach of conditions or legislative requirements may result in formal action being taken by the Licensing Authority in line with its licensing compliance and enforcement policy.

18. Exchange of Information

- 18.1 The Council may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.

19. Evaluation and review

- 19.1 In line with legislation, this Policy will be reviewed on a three yearly basis and at that time any proposed amendments to the Policy will be fully consulted upon, prior to re-adoption by the Council.

**SEX ESTABLISHMENT LICENCE CONDITIONS APPLICABLE TO SEX SHOPS
(INCLUDING MAIL ORDER),**

The following conditions shall be attached as the default position to all licences granted for **sex shops** in accordance with Section 2 and Schedule 3 of the Act.

These conditions may be dispensed with, added to or modified by the Council in any special case. In these circumstances the reason for this will be clearly recorded.

In these Conditions “The Council” shall mean East Riding Of Yorkshire Council and all enquiries concerning this licence shall be directed to the Licensing Team.

These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself

Introduction

- The primary use of a sex shop must be for the purpose of the sale of goods by retail either from within the premises or by mail order.
- The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours: **Monday – Sunday 7.00 am –midnight, some additional restrictions may be placed on the premises depending on its locality.**
- The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day
- The wording “**PRIVATE SHOP**” or “**ADULT SHOP**” shall be used but no other indication as to the nature of the business carried on at the licensed premises, unless approval has been given in writing by the Licensing Authority.
- Any facilities for previewing films, video recordings or other similar material shall be shown in such a manner that no material being displayed by way of preview shall be visible or audible externally

Goods Available in Sex Shops

All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a the shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.

All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this is effect is to be prominently displayed inside the Sex Shop. (This regulation does not require that films or video films be exhibited (played) to customers).

No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

Mail order goods only

- The sex establishment shall be used exclusively for ‘mail-order’ purposes only, selling sex articles and other articles that do not fall within the definition of sex articles in Schedule 3, paragraph 4(3) of the Local Government (Miscellaneous Provisions) Act 1982.
- All advertisements, catalogues, sales documents used in connection with the business intended or likely to be seen by customers will clearly and prominently state "MAIL ORDER ONLY". All deliveries/despaches of parcels shall be in plain wrapping not identifying what is inside.

Protection of Children and Vulnerable Persons from Harm

This includes protection from physical, mental or emotional harm.

- No person under the age of 18 years shall be admitted to or allowed on the premises whilst licensable activities are taking place.
- To ensure customers are over the age of 18 premises will be required to operate a “Challenge 21” or similar policy, whereby if a customer appears to be under that age an adequate ID check is carried out. This would require photographic ID to be checked and only current passports, driving licences and PASS ID’s should be accepted for this purpose. If customers are unable to provide such forms of ID to establish their age then they must be refused entry.
- All persons working in the premises, including any Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers and staff including adequate identity checks.

The Premises

CCTV

- The Licensing Authority will require CCTV to be maintained and operating during all hours the premises is open for trade and for tapes/recordings to be made available on request to an officer of the Licensing Authority or Humberside Police.
- The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must be prominently displayed advising that CCTV is in operation.

Suitable number of trained staff

- Conditions require that the Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises (“floor supervisors”)

- A suitable and sufficient number should be determined by carrying out a risk assessment of activities carried out, design of the premises including accessibility to all areas and should be linked to the capacity of the premises.

Management of the Premises

- The Licensee shall take all reasonable precautions for the safety of the public and employees.
- The Licensee or some responsible person, over the age of 18 years, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present when the Premises are open to the public. Such written nomination shall be continuously available for inspection by the Council's Licensing officers or the Humberside Police.
- Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
- A copy of the licence and any special conditions attached shall at all times be displayed in a prominent position on the Premises, so as to be available for inspection by the police, the fire and rescue service, and authorised officers of the Licensing Authority.
- The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a prominent position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
- The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified 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.
- The Licensee shall ensure that there is no nuisance or annoyance to neighbouring residents or commercial occupiers arising from noise emanating from the premises.
- The licensee shall retain control over all parts of the premises and shall operate the designated area of the premises exclusively as a sex shop as stated in the licence unless otherwise agreed in writing by the Council.
- The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
- Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town) of the Premises.
- The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee’s absence and the names and addresses of those employed in the Sex

Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

- No person under the age of 18 shall be admitted to the Premises.
- The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Opening of the Premises

- The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted.

Operation of the Premises

- No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue, sex cinema to either a sex shop or sex entertainment venue, or from a sex entertainment venue to either a sex cinema or a sex shop shall be made without the approval of the Council. This will require consideration of an appropriate application.

External Appearance

- A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
- The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
- The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.
- No items should be stored on the premises so that they can be viewed from any external window or door.
- The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
 - (iii) A notice stating the opening hours of the establishment must be prominently displayed

- (iv) The wording “PRIVATE SHOP” or “ADULT SHOP” but no other indication as to the nature of the business carried on at the licensed premises unless approval has been given in writing by the Licensing Authority.
- Any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises only with the approval of the Council in writing;
 - No external loudspeakers may be installed.

State, Condition and Layout of the Premises

- Notwithstanding the Licensee’s duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
- External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
- Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
- Alterations or additions to the layout, either internal or external, shall not be made to the Premises without prior written consent from the Council. A written request for consent to change must be made by the license holder.

Goods Available in Sex Establishments

- All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a the shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
- All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this is effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
- No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

Information for Customers

- The Licensee shall make available in the Sex Establishment free counselling and advice literature on matters related to sexual health and issues as may be published by the Family Planning Association, the NHS and or other similar organisations. Such literature should be displayed in a prominent position, preferably adjacent to all points of sale in the Sex Establishment.

Licensed Name

- (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as “The Licensed Name” by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.
- (b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

SPECIFIC CONDITIONS RELATING TO SEX SHOPS,

APPENDIX B

SPECIFIC CONDITIONS FOR PREMISES OPERATING AS SEX CINEMA'S

These conditions are ADDITIONAL TO THE STANDARD CONDITIONS AND only applicable to a **SEX CINEMA**

Film Exhibition

No film shall be exhibited unless:

a) It has been passed by the British Board of Film Classification (“BBFC”) as a U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the council; or

b) The film has been passed by the council as U, PG, 12, 15, 18 or RESTRICTED (18).

If the Licence holder is notified by the council, in writing, that it objects to the exhibition of a film specifying the grounds of objection, such film shall not be exhibited.

The Licence holder shall give at least 28 days notice in writing to the council of any proposal to exhibit any film which has not been classified as specified above. Such a film shall only be exhibited if consent has been obtained from the council in writing and subject to any terms or restrictions contained within such written consent.

When the programme includes a film in the 12, 15 or 18 category, no person appearing to be under the age of 12, 15 or 18 as appropriate shall be admitted to any part of the programme.

If the council does not agree with the category of any film as passed by the BBFC, it may alter the category or prohibit the showing of the film.

Where any notice is given by the council to the Licence holder that it has altered the category of any film, the film shall thereafter be treated as being in the altered category and the conditions application to the exhibition of films in the altered category shall be observed accordingly.

General

No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

APPENDIX C

SEX ESTABLISHMENT LICENCE CONDITIONS APPLICABLE TO SEXUAL ENTERTAINMENT VENUES (SEV'S)

The following conditions shall be attached as the default position to all licences granted for **sexual entertainment venues** in accordance with Section 2 and Schedule 3 of the Act.

These conditions may be dispensed with, added to or modified by the Council in any special case. In these circumstances the reason for this will be clearly recorded.

In these Conditions “The Council” shall mean East Riding Of Yorkshire Council and all enquiries concerning this licence shall be directed to the Licensing Team.

These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself

Introduction

- The Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises (“floor supervisors”) to ensure that conditions of licence are complied with, in particular the ‘no touching’ conditions, and to ensure the safety of performers.
- The Licensee must submit a set of “House Rules” to the Licensing Authority as part of the application process; these rules will form part of the licence, and must be complied with. Furthermore they must ensure that all performers are fully conversant with and sign an agreement to adhere to such House Rules.
- In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, then the Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council and in full compliance with guidance issued by the Information Commissioners Office (ICO). Appropriate prominent notices must be displayed drawing attention to the use of CCTV cameras on the premises. advising that CCTV is in operation.
- CCTV recordings will be made available for viewing by authorised officers of the Licensing Authority or the Humberside Police. Copies of such recordings must be provided upon reasonable request within 48 hours of request being made.
- CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. The CCTV system must be monitored by a dedicated member of staff or security personnel at all times that the premises are in operation.
- The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall

display advertisements promoting the entertainment or the Premises in any unlawful manner.

- Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.
- The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst relevant entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
- No fastenings of any description shall be fitted upon any booth or cubicle within the premises nor shall more than one person and a performer be present in any such booth or cubicle at any time. Appropriate fastenings are permitted on toilet doors.

Opening of the Premises

- Relevant entertainment may only be provided during the hours permitted by an authorisation under the Licensing Act 2003 unless a specific condition on the Sex Establishment Licence permits otherwise.

Provision of Relevant Entertainment

- Code of conduct to be in place for all performers and training given by management to all performers on these codes and recorded in files held on the premises.
- Performers shall only perform in specified designated areas, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council. *No audience participation shall be permitted at any time.*
- The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
- Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where relevant entertainment may be provided.
- At the conclusion of performances all articles of clothing removed during that performance must be put back on. This does not prevent performers going to their non-public changing area to change their attire.
- Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
- Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.
- Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
- Performers are never to be alone in the company of a customer except in an area open to the public within the Premises.

- The Licensee must put in sufficient measures to ensure that during the performance of a table or lap dance:
 - customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
 - customers must remain seated during the entire performance of the dance;
 - for the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - Performers must not sit or straddle the customer;
 - Performers must not place their feet on the seats.

The Licensee must ensure that during performances of relevant entertainment:

17.5.1 Performers may not perform any act that clearly simulates any sexual act;

- Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;
- Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
- Performers may not use inappropriate, suggestive or sexually graphic language at any time;
- Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
- Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.

The Licensee must ensure that during performances of relevant entertainment:

- Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
- Customers must remain appropriately clothed at all times.

At all times there must be no physical contact between customers and employees, or other persons working within the premises, in any part of the premises save for the following:-

- The payment of an entry fee by customers to authorised members of staff.
- The payment of a fee for relevant entertainment.
- The purchasing of drinks by customers from authorised members of staff.

- The placing of bank notes by the customer in a garter worn by females or an armband worn by males.
- SIA registered door staff in the execution of their duties.

At all other times during the performance the performer will keep a minimum distance of at least 3 feet away from the customer so as to police and reinforce the 'no touch' rule.

Relevant entertainment will only take place in specified designated areas within the premises, as identified on the plan attached to the licence.

Notices will be clearly displayed at each entrance to the premises and in the specified designated areas. Notices must state that 'no touching' relates to customers touching performers and other persons working within the premises and vice versa.

Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue.

The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the Premises, with the exclusion of Door Supervisors.

The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that relevant entertainment takes place on the Premises. *No photographs can be taken on the premises.*

External advertising of relevant entertainment shall not include any of the following:

- a) any depiction of full nudity
- b) any depiction of partial nudity (including the display of breasts, buttocks or genitalia)
- c) any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm.

The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:

- (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.

- (iii) A notice stating the opening hours of the establishment.

Protection of Children and Vulnerable Persons from Harm

This includes protection from physical, mental or emotional harm.

- No person under the age of 18 years shall be admitted to or allowed on the premises whilst licensable activities are taking place.
- To ensure customers are over the age of 18 premises will be required to operate a “Challenge 21” or similar policy, whereby if a customer appears to be under that age an adequate ID check is carried out. This would require photographic ID to be checked and only current passports, driving licences and PASS ID’s should be accepted for this purpose. If customers are unable to provide such forms of ID to establish their age then they must be refused entry.
- All persons working in the premises, including any Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers and staff including adequate identity checks.

The Premises

CCTV

- The Licensing Authority will require CCTV to be maintained and operating during all hours the premises is open for trade and for tapes/recordings to be made available on request to an officer of the Licensing Authority or Humberside Police.
- The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must be prominently displayed advising that CCTV is in operation.

Suitable number of trained staff

- Conditions require that the Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises (“floor supervisors”)
- A suitable and sufficient number should be determined by carrying out a risk assessment of activities carried out, design of the premises including accessibility to all areas and should be linked to the capacity of the premises.

Management of the Premises

- The Licensee shall take all reasonable precautions for the safety of the public and employees.
- The Licensee or some responsible person, over the age of 18 years, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. Such written nomination shall be continuously available for inspection by the Council's Licensing officers or the Humberside police.

- Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
- A copy of the licence and any special conditions attached shall at all times be displayed in a prominent position on the Premises, so as to be available for inspection by the police, the fire and rescue service, and authorised officers of the Licensing Authority.
- The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a prominent position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
- The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified 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.
- The Licensee shall ensure that there is no nuisance or annoyance to neighbouring residents or commercial occupiers arising from noise emanating from the premises.
- The licensee shall retain control over all parts of the premises and shall operate the designated area of the premises exclusively as a sex shop as stated in the licence unless otherwise agreed in writing by the Council.
- The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
- Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town) of the Premises.
- The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
- No person under the age of 18 shall be admitted to the Premises.
- The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Opening of the Premises

- The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted.

Operation of the Premises

- No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue, sex cinema to either a sex shop or sex entertainment venue, or from a sex entertainment venue to either a sex cinema or a sex shop shall be made without the approval of the Council. This will require consideration of an appropriate application.

External Appearance

- A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
- The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
- The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.
- No items should be stored on the premises so that they can be viewed from any external window or door.
- The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
 - (iii) A notice stating the opening hours of the establishment must be prominently displayed
 - (iv) The wording “PRIVATE SHOP” or “ADULT SHOP” but no other indication as to the nature of the business carried on at the licensed premises unless approval has been given in writing by the Licensing Authority.
 - Any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises only with the approval of the Council in writing;
 - No external loudspeakers may be installed.

State, Condition and Layout of the Premises

- Notwithstanding the Licensee’s duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
- External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

- The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
- Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
- Alterations or additions to the layout, either internal or external, shall not be made to the Premises without prior written consent from the Council

Information for Customers

- The Licensee shall make available in the Sex Establishment free counselling and advice literature on matters related to sexual health and issues as may be published by the Family Planning Association, the NHS and or other similar organisations. Such literature should be displayed in a prominent position, preferably adjacent to all points of sale in the Sex Establishment.

Licensed Name

- (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as “The Licensed Name” by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.
- (b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

**SCHEME OF DELEGATION IN RELATION TO SEX ESTABLISHMENTS-
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS
AMENDED BY THE POLICING AND CRIME ACT 2009**

	Council	Licensing Act 2003 Committee	Licensing Act 2003 Sub-Committee	Director of Environment and Neighbourhood Services
Policy approval	All cases of significant change or policy development			Minor changes to correct administrative errors and issue as a revision (in consultation with the Chairman of the Committee)
Refusal of application for a sex establishment licence			All cases	
Refusal of an application to renew a licence			All cases	
Refusal of an application to transfer a licence			All cases	
Refusal of an application to vary a licence			All cases	
Revocation of a sex establishment licence			All cases	
Application for the grant of a licence for a Sex Establishment			If a relevant objection received or the Director of Environment and Neighbourhood Services has concerns in respect of the application or characteristics of the locality.	If no objections are received

Application for the renewal of a Licence for a Sex Establishment			If a relevant objection received or the Director of Environment and Neighbourhood Services has concerns in respect of the application or characteristics of the locality.	If no objections are received
Application for the transfer of a Licence for a Sex Establishment			If a relevant objection received or the Director of Environment and Neighbourhood Services has concerns in respect of the application or characteristics of the locality.	If no objections are received
Application for a variation to a Sex Establishment Licence			If a relevant objection received or the Director of Environment and Neighbourhood Services has concerns in respect of the application or characteristics of the locality.	If no objections are received
Application for Waiver of Licence in respect of any type of Sex Establishment Licence.			All cases	
Setting of fees		All cases		
Where conditions allow written consent to amend restrictions in relation to opening hours, external appearance, waive conditions in individual cases etc.			If a relevant objection received or Officers have concerns	All other cases

Whether an application is frivolous, vexatious or relates to moral grounds				All cases
Change of premises name application, once licence granted				All cases

Background information and contact web addresses:

- Local Government (Miscellaneous Provisions) Act 1982 Schedule 3
<http://www.legislation.gov.uk/ukpga/1982/30/schedule/3>
- Policing and Crime Act 2009 <http://www.legislation.gov.uk/ukpga/2009/26/section/27>