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# Sex Establishments Policy

## **This foreword does not form part of the Policy and is for information purposes only**

This document outlines how West Somerset Council will approach the licensing of sex establishments, details the licensing procedures that will be followed and sets out conditions that will be attached to any licences granted.

The policy covers the following types of sex establishments:

- 1 Sex Shops
- 2 Sex Cinemas
- 3 Sexual Entertainment Venues

West Somerset Council adopted additional powers under the Local Government (Miscellaneous Provisions) Act 1982 to licence sexual entertainment venues (i.e. lap dancing clubs and similar types of premises). The change to the licensing regime allows greater control of such establishments together with improved public access to the licensing process.

It should be noted that the Council can not take a moral stand in relation to the licensing of sex establishments. The licensing of these types of establishments is a legal duty under legislation passed by Parliament and such businesses are a legitimate part of the retail and leisure industries. It is our role as a licensing authority to administer the licensing regime in accordance with the law.

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## **1.0 General Principles and Information**

### **1.1 Introduction**

- 1 West Somerset Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that it can licence sex shops, sex cinemas and sexual entertainment venues in the district. In this policy, these types of premises are referred to as “sex establishments” unless it is said otherwise.
- 2 At the time of adopting this policy, the Council has issued no sex shop licences under the 1982 Act.
- 3 West Somerset Council does not take a moral stand in adopting 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 Council’s role as a licensing authority to administer the licensing regime in accordance with the law.
- 4 Consultations on this policy took place between 16<sup>th</sup> December 2010 and 10<sup>th</sup> March 2011 and the policy was approved by the Full Council on 15<sup>th</sup> December 2010 to take effect on the 11<sup>th</sup> March 2011.
- 5 The consultations were conducted with local residents; the statutory consultees and holders of premises licences under the Licensing Act 2003 in the district.
- 6 In developing this policy, the Council took into account the legal requirements of the 1982 Act and their duties under:
  - a) section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the district;
  - b) the Regulators’ Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
  - c) the Provision of Services Regulations 2009 to ensure the policy is:
    - i) non-discriminatory
    - ii) justified by an overriding reasons relating to the public interest
    - iii) proportionate to that public interest objective
    - iv) clear and unambiguous
    - v) objective
    - vi) made public in advance, and
    - vii) transparent and accessible.

### **1.2 Purpose and Aim of the Policy**

- 7 The policy is intended to set out clear and concise guidance, procedures and principles for the benefit of the Licensing Authority, the community, applicants and other relevant organisations.
- 8 The policy also contains standard conditions which will be applied to all the different types of sex establishments and will form part of any licence granted.

### **1.3 Scope of the Policy**

- 9 This policy relates to any premises wishing to operate as a Sex Shop, Sex Cinema or Sexual Entertainment venue in West Somerset.

- 10 Not all premises will automatically require a licence. Where there is an exemption within the legislation this had been set out in this policy document at **Appendix A**.
- 11 Notwithstanding matters contained within this policy document consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for Sex Establishment licences.
- 12 When considering applications for a Sexual Entertainment Venue licence, in respect of premises that have previously operated without the requirement for a licence prior to the adoption of the legislation, in addition to this policy document, the licensing authority will have regard to the Home Office guidance issued in March 2010 entitled "Sexual Entertainment Venues – Guidance for England and Wales."

#### **1.4 Glossary of Terms**

- 13 The terminology used in this document is set out in **Appendix A**.

#### **1.5 Review of the Policy**

- 14 This policy will be reviewed on a 3-yearly basis. Any proposed amendments to the Policy will be fully consulted upon, prior to re-adoption by the Council.

#### **1.6 Communicating the Policy**

- 15 This policy will be available on the Council's website and will be made available at the Council offices for public inspection. In addition all responsible authorities under the Licensing Act 2003 will be provided with a copy of this policy document.

#### **1.7 Exchange of Information**

- 16 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.
- 17 Details of applications and objections which are referred to a Licensing Sub-Committee for determination will be published in reports that will be made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.
- 18 In accordance with the Local Government (Miscellaneous Provisions) Act 1982 the names and address of objectors will not be disclosed to applicants or published in public reports unless permission is given to do so. Such details will be made available to Councillors on the Licensing Committee.

#### **1.8 Compliance and Enforcement**

- 19 The Council keep itself informed of developments as regards the work of the Better Regulation Executive and other central government bodies in its consideration of the regulatory functions of local authorities.
- 20 It is recognised that Sex Entertainment Venues are also regulated by other legislation due to the nature of those operations, and therefore may require multiple inspections by different agencies. Wherever possible consolidated enforcement inspections will be undertaken to reduce the burdens on businesses.
- 21 Breach of conditions or legislative requirements may result in formal action being taken by the Licensing Authority.

22 West Somerset Councils approach to enforcement is set out in our enforcement policy which is available on request or can be viewed on the Council's website at: [www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk)

## **2 SEX ESTABLISHMENT LICENCES**

### **2.1 Sex Shops – Significant Degree**

23 Licences for Sex Shops are required where R18 films or “a significant degree” of “sex articles” are being sold.

24 The phrase “sex articles” is defined in the 1982 Act, but the phrase “a significant degree” is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, the following will be taken into consideration:

- i) the ratio of sex articles to other aspects of the business
- ii) the absolute quantity of sales
- iii) the character of the remainder of the business
- iv) the nature of the displays in the business
- v) turnover
- vi) other factors which appear to be materially relevant.

### **2.2 Sexual Entertainment Venues – Relevant Entertainment**

25 Licences for sexual entertainment venues are required for “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”. The definition of “relevant entertainment” is shown at **Appendix A**.

26 In deciding whether entertainment is “relevant entertainment” each case will be judged on its merits, but generally the term will include:

- i) lap dancing
- ii) pole dancing
- iii) table dancing
- iv) strip shows
- v) peep shows
- vi) live sex shows

27 Adult entertainment not classed as “relevant entertainment” may still require licensing under the Licensing Act 2003.

### **2.3 Grounds for Refusal**

28 There are some specific grounds for refusing sex establishment licences set out in paragraph 12 of schedule 3 to the 1982 Act. These include where the applicant is unsuitable to hold a licence, due to their age, domiciliary status or previous criminal convictions. More detailed information is provided at paragraph 2.7. Below.

29 Applications for new or renewed licences can be refused where:

- 1 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 Council considers appropriate for that locality.
- 2) The grant or renewal of the licence would be inappropriate, having regard to:

- i) the character of the relevant locality, or
- ii) the use to which any premises in the vicinity are put, or
- iii) to the layout, character or condition of the premises.

## **2.4 Locality**

30 Licences will only be granted in predominately commercial areas and the Council is mindful of its power to be able to determine that no sex establishment should be located in a particular locality. In accordance with case law, the Council will determine locality on a factual basis taking into account the particular circumstances of each case and not by drawing boundaries on a map.

31 In deciding the appropriate number of premises to be licensed in any particular locality, the Committee shall consider the character of the relevant locality and what is the appropriate number of sex establishments for the relevant locality.

## **2.5 Character of a Locality**

32 In considering the character of a locality, the following factors will be taken into consideration:

- i) Whether the premises are sited in a residential area.
- ii) Whether the premises are sited near shops used by or directed to families or children, or on frontages frequently passed by the same.
- iii) Whether the premises are sited near properties which are sensitive for religious purposes e.g, churches, mosques, temples.
- iv) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries, swimming pools and markets.
- v) Any adverse impact on crime and disorder and public nuisance in the relevant locality which the operation of the sex establishment may generate.

## **2.6 Waivers**

33 The Council does not consider it would be appropriate to permit waivers from the requirements to hold a sex shop licence, except in extreme circumstances considered by the Licensing Committee (for example to allow a temporary re-location of a business following damage to licensed premises).

34 The Council does not consider it would be appropriate to permit waivers from the requirements to hold a sexual entertainment venue licence, 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.

## **2.7 Suitability of Applicant**

35 The applicant will be required to demonstrate that s/he is a suitable person to hold a licence. In determining suitability, the Council will normally take into account;

- i) previous knowledge and experience of the applicant;
- ii) any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area;
- iii) any report about the applicant and the management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant;

iv) any other relevant reason.

### **3 GUIDANCE FOR APPLICANTS**

#### **3.1 Licence Conditions**

36 Section 13 of Schedule 3 allows the Council to make regulations prescribing standard conditions applicable to Sex Establishments. The Standard Conditions applicable to Sex Shops, Sex Cinemas and Sexual Entertainment Venues as approved by the Council on 15<sup>th</sup> December 2010 are shown at **Appendix B and C**.

37 Where it is reasonable and necessary to do so, the Licensing Sub-Committee may impose additional proportional conditions on a licence in addition to the Standard Conditions. Wherever possible, these will be discussed in advance with the applicant.

#### **3.2 Fees**

38 Licences fees are determined each year and details are available from the Licensing Team and the Council's website at [www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk). Separate fees are charged for applying for a licence, renewing a licence, and for making variations to a licence.

#### **3.3 Application Forms**

39 Application forms for sex shops and sexual entertainment venues, including public notices are available from the Licensing Unit or the Council's website at [www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk).

#### **3.4 CCTV Systems**

40 Due to the nature of sex shops and sexual entertainment venues it is essential that these types of premises are provided with high quality CCTV systems which are operated and maintained to a good standard. Further information on CCTV specifications and requirements can be obtained from the Police.

#### **3.5 Protection of Children**

41 The holder of a licence for a sex establishment shall be guilty of an offence if s/he knowingly permits a person under 18 years of age to enter the establishment or to be employed in the business of the establishment. A person found guilty of such an offence under the Licensing Act 2003 shall be liable on summary conviction to a fine not exceeding £20,000.

42 To ensure customers are over the age of 18, premises should operate a "Challenge 25" policy, whereby if 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 and driving licences should be accepted for this purpose. If customers are unable to provide such forms of ID to establish their age, then they should be refused entry.

#### **3.6 SIA Registered Door Supervisors**

43 Only door supervisors who hold a valid Door Supervisors licence issued by the Security Industry Authority (SIA) should be employed at a licensed premises.

#### **3.7 Suitable Number of Trained Staff**

44 The Standard Conditions for sexual entertainment venues 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”) to ensure that conditions of licence are complied with, in particular the no touching conditions, and to ensure the safety of performers.

45 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, number of performers and should be linked to the capacity of the premises.

### **3.8 Form of Notice – Indecent Displays (Control) Act 1981**

46 The Councils Standard Conditions require that a warning notice be displayed in accordance with the above legislation.

a) The warning notice must contain the following words, and no others:

**WARNING**

**Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age.**

b) The word “WARNING” must appear as a heading

c) No pictures or other matter shall appear on the notice.

d) The notice must be situated so that no one could reasonably gain access to the shop or part of the shop in question without being aware of the notice and it must be easily legible by any person gaining such access.

### **3.9 Existing Permissions under the Licensing Act 2003**

47 Persons holding a licence under the Licensing Act 2003 which includes the provision of activities such as lap, pole or table dancing or strip shows, may be required to apply separately for a sexual entertainment venue licence under the Local Government (Miscellaneous Provisions) Act 1982.

48 Where additional licensable activities take place at the premises e.g. the sale of alcohol, separate licences will be required to be held under both the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982. If the only activities taking place at the premises are those coming within the meaning of relevant entertainment under the sexual entertainment venue licence, then no licence will be required under the Licensing Act 2003.

## **4 APPLICATION PROCESS**

### **4.1 General Requirements**

- 49 Applications must be submitted to the Licensing Authority together with the relevant fee. Applications can be submitted in person at the Council Offices (preferred option), by post or online. The application form can be used for the grant, variation, transfer and renewal applications.
- 50 To apply for the grant of a sex establishment licence, an applicant must:
- a) Forward to the Council –
    - i) Fully completed application form;
    - ii) Plan to scale of 1:100 of the premises to which the application relates showing all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street. In the case of sexual entertainment venues, the plan must outline the area where the relevant entertainment will take place.
    - iii) Drawings showing the front elevation as existing (or as proposed) to a scale of 1:50. Details should be included of how the exterior design of the premises will be such that the interior of the premises are invisible to passers by.
    - iv) The fee.
  - b) Display a notice on or near the premises.
  - c) Advertise the application in a local newspaper.
  - d) Within 7 days of making the application to the Council, the applicant must send a copy of the application and plan to the Licensing Officer, Taunton Police Station, Upper Shuttern Street, Taunton, Somerset, TA1 3QA.
- 51 Applicants must give public notice of the application by publishing an advertisement in a local newspaper. This must be published within 7 days of making the application, If the application relates to a premises then there is an additional requirement for notice of the application to be displayed for 21 days 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.
- 52 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).
- 53 Such House Rules will form part of the licence (if granted) and may be subject to amendment by the Council prior to approval.
- 54 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.
- 55 With regard to online applications, tacit authorisation does not apply to new, transfer or variation applications for sex establishment licences. This means you must wait for the Council to determine your application before you can operate or make changes to a sex establishment.

## **4.2 Variation of a Licence**

56 The holder of a Sex Establishment Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held. It should be noted that applications for variation of licence are also subject to the site and newspaper notice requirements.

57 The process of applying for a variation is the same as that for applying for an initial grant, except that plans of the premises are not required unless the application involves structural alterations to the premises.

58 In accordance with the Act, the Council may determine an application to vary a licence as follows:

- i) grant the application as applied for, or
- ii) grant the application with such variations as they think fit, or
- iii) refuse the application.

## **4.3 Renewal of Licence**

59 The holder of a Sex Establishment Licence may apply for renewal of the licence. In order for the licence to continue to have effecting during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires. If this is not done the licence will be deemed to have lapsed and an application for a new grant of a licence will be required. Applicants are therefore advised to make renewal applications at least 28 days before the expiry of a licence to ensure continuity of the licence.

60 The premises can continue to operate past the licence expiry date provided that the renewal application has been submitted to the Council before the licence expires. The Council will notify an applicant of its decision.

61 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that plans of the premises are not required.

62 When considering a renewal application the Council will take into account the criteria listed in paragraph 72 below and:

- i) past demonstrable adverse impact from the activity
- ii) whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.

## **4.4 Transfer of Licence**

63 A person may apply for the transfer of a licence at any time.

64 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that plans of the premises are not required.

65 There are specific grounds set out at paragraph 85 below where the transfer of a licence can be refused by the Council.

## **4.5 Transitional Provisions**

66 There are specific transitional arrangements set out in the legislation for implementation of the revised licensing procedures for sexual entertainment venues. The following outlines the transitional arrangements for West Somerset Council

The first appointed day will be 11<sup>th</sup> March 2011

The second appointed day will be 11<sup>th</sup> September 2011

The third appointed day will be 10<sup>th</sup> March 2012

The above dates are provisional and are dependant on various legal procedures being completed by the Council.

- 67 The first appointed day is when the new provisions to regulated sexual entertainment venues by the Council come into effect
- 68 The second appointed day is the date by which existing Licensing Act 2003 Licence holders must submit their applications for a new sexual entertainment venue licence. The Council will not determine any applications made before this date to allow all applications to be considered together. New applications made without a Licensing Act 2003 licence will not be considered before the second appointed day.
- 69 The third appointed day is the final day of the transitional period. Existing holders of licences under the Licensing Act 2003 who have been granted a sexual entertainment venue licence may continue to operate under the conditions on the Licensing Act 2003 licence until this date. From this date the conditions on the new sexual entertainment venue licence will apply. New applications made without a Licensing Act 2003 licence after the second appointed day will be processed in the normal manner subject to the correct application procedures being complied with.
- 70 For holders of existing Licensing Act 2003 licences and sexual entertainment venue licences, there could be duplication of licence conditions. Where this occurs any conditions which are duplicated on the Licensing Act 2003 licence will become effectively redundant. It is therefore recommended that consideration be given by existing Licensing Act 2003 licence holders to using the minor variation procedures to remove any redundant conditions on a premises licence or club premises certificate after the sexual entertainment venue licence has been issued.

## **5 COMMENTING ON LICENCE APPLICATIONS**

- 71 The Council will consult with relevant bodies and persons to ensure that all relevant information is available when considering an application. For the purposes of this Act, the Council will consult with the following:
- i) Avon and Somerset Constabulary (Statutory Consultee)
  - ii) West Somerset Councils Children and Young People Service
  - iii) Devon & Somerset Fire Authority
  - iv) Ward Councillors
  - v) Town or Parish Councils relevant to the application being made
  - vi) Trade bodies or local partnerships where appropriate.
- 72 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The relevant grounds are as follow:
- i) to the character of the relevant locality; or
  - ii) to the use to which any premises in the vicinity are being put; or
  - iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 73 Any objections received by the Council which do not relate to the grounds set out in the Act shall be rejected by the Council. Where objections are rejected, the objector will be given written reasons.
- 74 Objectors can include residents/tenants associations, community associations and trade associations. Councillors and MPs may also raise objections. Elected West Somerset Councillors may represent interested parties, providing they do not also sit on the Licensing Sub-Committee determining the application.
- 75 The Council 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 officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given written reasons. A report will be made to the Licensing Sub-Committee determining the application (if appropriate), indicating the general grounds of the representations and the reasons for the rejection.
- 76 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.
- 77 Valid objections will be considered by the Licensing Sub-Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case.
- 78 Objections must be made in writing (email is acceptable) and should include the following:
- i) the name and address of the person or organisation making the objection
  - ii) the premises to which the objection relates
  - iii) the proximity of the premises to the person making the objection (a sketch map or plan may be helpful to show this)
  - iv) the reasons for making the objections, which are clearly set out in relation to the grounds for refusal as stated at paragraph 72 above.

## **6 DETERMINATION OF APPLICATIONS**

### **6.1 Granting of Licences**

79 The Council will consider each case upon its merits and will not apply rigid rules to its decision making.

80 The Council is NOT permitted to grant a licence to:

- i) a person under the age of 18;
- ii) a person who is for the time being disqualified from holding a licence following revocation of such a licence;
- iii) a 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;
- iv) a 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
- v) a body corporate which is not incorporated in the United Kingdom.

There is no right of appeal against refusal of an application on the above grounds.

81 The Council has discretion to refuse an application in relation to the following matters:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried out on for the benefit of a person, other than the applicant, who would be refused a grant, renewal or transfer of such a licence if s/he made the application her/himself.
- c) the number of sex establishments, or sex establishment of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider appropriate for that locality.
- d) that the grant or renewal of the licence would be inappropriate having regard to:
  - i) the character of the relevant locality; or
  - ii) the use to which any premises in the vicinity are put; or
  - iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

82 When determining a licence application the Council will have regards to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

83 Individuals or responsible authorities will only be afforded a hearing if the Chairman can be satisfied that:

- i) a relevant written objection was received before the end of the 28 day statutory consultation period.
- ii) the objector can be confined to putting forward only those points that are relevant to consideration of the grounds of refusal and which have been notified in writing by the applicant.

84 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, the application will be granted by way of delegated authority by officers.

However, if any objections have been received, or if there are concerns regarding the characteristics of the locality, the application will be referred to the Councils Licensing Sub-Committee for a hearing of the application.

85 An application for the transfer of a licence can only be refused on the following grounds:

- i) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- ii) that if the licence were to be 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 s/he made the application her/himself.

86 The Council will give clear reasons for its decisions.

87 When issuing a sex establishment licence the Council is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued.

88 The Council has the power to make standard conditions applicable to all licences for sex establishments and the standard conditions agreed by the Council are shown at Appendices C and D.

89 Should the Council's 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.

90 All standard conditions will be reviewed as part of the full Policy review.

## **6.2 Length of Licences**

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

## **6.3 Right to Appeal a Decision**

92 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.

93 Appeals must be made to the local Magistrates' Court within 21 days, starting from the date the applicant is notified of the Council's decision. The local Magistrates Court for West Somerset to which such appeal should be submitted is Taunton Magistrates' Court, St Johns Road, Taunton. It should be noted that a fee is payable to the Court to lodge such an appeal.

- 94 Applicants can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed.
- 95 An appeal against the Councils decision if the application was refused cannot be made on the following grounds:
- i) that the number of sex establishments, or of sex establishments of a certain kind, in the relevant locality at the time of the application was determined is equal to or exceeds the number which the authority consider is appropriate for that locality, or
  - ii) 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.
- 96 The Magistrates' Court will determine the appeal application. If you do not agree with the decision made by the Magistrates' Court, you can appeal to the local Crown Court. The decision made by the Crown Court will be final.
- 97 The Council will comply with a decision made by the Magistrates or Crown Court.

## **7.0 Further Information**

- 98 Further information about the licensing of sex establishments can be obtained from:

The Licensing Unit, West Somerset Council, West Somerset House, Killick Way, Williton, Taunton, Somerset, TA4 4QA.

Tel: 01643 703704

Fax: 01984 635364

Email: [licensingenvhealth@westsomerset.gov.uk](mailto:licensingenvhealth@westsomerset.gov.uk)

Website: [www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk)

The following can be viewed at [www.opsi.gov.uk](http://www.opsi.gov.uk)

- The Local Government (Miscellaneous Provisions) Act 1982
- The Policing and Crime Act 2009
- Crime and Disorder Act 1998
- Provision of Services Regulations 2009
- Legislative and Regulatory Reform Act 2006
- Human Rights Act 1998

Electronic applications may be made either on line through the Councils website or via the Business Link website at [www.businesslink.gov.uk](http://www.businesslink.gov.uk)

Large print copies, audio copies and translation into another language of this policy can be arranged on request from the Licensing Team.

## **APPENDIX A – GLOSSARY OF TERMS**

### **The Council**

Means West Somerset Council

### **The Act**

Means the Local Government (Miscellaneous Provisions) Act 1982

### **Sex Shop**

The legislation defines a Sex Shop as:

- 1 Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:
  - a) sex articles; or
  - b) other things intended for use in connection with, or for the purpose of stimulating or encouraging –
    - i) sexual activity; or
    - ii) acts of force or restraint which are associated with sexual activity.
- 2 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.

### **Sex Articles**

The legislation defines a Sex Article as:

- 3 a) anything made for use in connection with, or for the purpose of stimulating or encouraging –
  - i) sexual activity; or
  - ii) acts of force or restraint which are associated with sexual activity; and
- b) anything to which sub-paragraph 4 below applies.
- 4 This sub-paragraph applies –
  - a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
  - b) to any recording vision or sound, which –
    - i) is considered primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
    - ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

## Sex Cinema

The legislation defines a Sex Cinema as:

- (1) Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which -
  - (a) are concerned primarily with the portrayal of or primarily deal with or relate to, or are intended to stimulate or encourage -
    - (i) sexual activity; or
    - (ii) acts of force or restraint which are associated with sexual activity; or
  - (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,
- (2) No premises shall be treated as a sex cinema by reason only -
  - (a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation, or
  - (b) of their uses for an exhibition to which Section 6 of the Cinemas Act 1985 (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of the Cinemas act 1985.

## Sexual Entertainment Venue

The legislation defines a Sexual Entertainment Venue as:

- (1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “relevant entertainment” means-
  - (a) any live performance; or
  - (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (3) **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 as mentioned in sub-paragraph (1) 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));
- (c) premises specified or described in an order made by the relevant national authority.

*(4) – (12) omitted as they refer to other matters*

(13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

(14) In this paragraph:

**Audience**

Includes an audience of one.

**Display of nudity**

Means:

- (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;

**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;

**Premises**

Includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

And for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.

## **APPENDIX B – STANDARD LICENCE CONDITIONS APPLICABLE FOR SEX SHOPS AND SEX CINEMAS**

### **Introduction**

1. In these Conditions “The Council” shall mean the West Somerset Council and all enquiries concerning this licence shall be directed to the Licensing Officer, West Somerset Council.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 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.
3. These conditions are only applicable to “Sex Shop and Sex Cinema” premises.

### **Management of the Premises**

4. The Licensee or some responsible person, over the age of 18, 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.
5. 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.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
8. 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.
9. 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.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises.
11. The Licensee shall ensure that during the hours that the premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.
12. 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.

13. The Licensee shall take all reasonable precautions for the safety of the public and employees.
14. No person under the age of 18 shall be admitted to the premises.
15. The Licensee shall adopt a procedure to check the age of customers entering the shop who appear to be younger than 25 in order to ensure that they are not under the age of 18.
16. All persons working in the premises shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of employees including adequate identity checks to confirm the status of information supplied by individuals.
17. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
18. 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.
19. The Licensee shall inform the Council if he is convicted under the Obscene Publications Act, 1959, the Protection of Children Act 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the Licensee. The Council will take into consideration any such conviction or orders for possible revocation or non-renewal of the licence.

### **Opening of the Premises**

20. 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 9:30 – 6:00 pm

### **Operation of the Premises**

21. No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue shall be made without the approval of the Council. This will require consideration of an appropriate application.
22. The primary use of a sex shop must be for the purpose of the sale of goods by retail.

### **External Appearance**

23. 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 required.
24. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.

25. The windows and opening 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.
26. No items should be stored on the premises so that they can be viewed from any external window or door.
27. 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 41 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature of 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.
  - (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.

28. The lettering used in respect of such permitted items:-

In the case of the permitted items at paragraph 28 'i' , 'ii' and 'iv' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.

29. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the premises or in the vicinity of the premises, except those mentioned in conditions 24 and 28 or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.

### **State, Condition and Layout of the Premises**

30. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and relate 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.
31. 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.
32. The premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises 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.
33. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
34. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
35. Alterations or additions, either internal or external, shall not be made to the premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

36. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.

#### **Goods Available in Sex Establishments**

37. 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.

38. 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 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).

39. 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**

40. 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**

41. (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.

## **APPENDIX C – STANDARD LICENCE CONDITIONS APPLICABLE FOR SEXUAL ENTERTAINMENT VENUE PREMISES**

### **Introduction**

1. In these Conditions “The Council” shall mean the West Somerset Council and all enquiries concerning this licence shall be directed to the Licensing Officer, West Somerset Council.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 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.
3. These conditions are only applicable to a “Sexual Entertainment Venue” premises.

### **Management of the Premises**

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) with the authority to direct activities within the premises, shall have personal responsibility for and be present on the premises at all times when the premises are open to the public.
5. 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.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
8. 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.
9. 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.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises.
11. 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.

12. The Licensee shall take all reasonable precautions for the safety of the public and employees.
13. The Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior or 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.
14. No person under the age of 18 shall be admitted to the premises.
15. The Licensee shall adopt a procedure to check the age of customers entering the shop who appear to be younger than 25 in order to ensure that they are not under the age of 18.
16. All persons working in the premises, including performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of employees and passport details (Country of issue and passport number). Identity checks on performers should be based on production of a current passport.
17. 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.
18. In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, the Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
19. CCTV recordings will be made available for viewing by authorised officers of the licensing authority or the police. Copies of such recordings must be provided upon request.
20. 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.
21. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the premises (nor any persons acting on behalf of any such person) shall display advertisements promoting the entertainment of the premises in any unlawful manner.
22. 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.
23. 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.
24. 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.

25. The Licensee shall inform the Council if he is convicted under the Obscene Publications Act, 1959, the Protection of Children Act 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the Licensee. The Council will take into consideration any such conviction or orders for possible revocation or non-renewal of the licence.

### **Opening of the Premises**

26. Relevant entertainment may only be provided during the hours permitted by this Licence.

### **Operation of the Premises**

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

28. 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.

### **External Appearance**

29. 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 required.

30. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.

31. The windows and opening 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.

32. 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.

33. 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.

34. 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 56 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.

35. The lettering used in respect of such permitted items:-

In the case of the permitted items at paragraph 34 'i', 'ii' and 'iii' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.

36. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the premises or in the vicinity of the premises, except those mentioned in conditions 29 and 34 or otherwise approved by the Council in writing;

(b) No external loudspeakers may be installed.

### **State, Condition and Layout of the Premises**

37. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and relate 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.

38. 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.

39. 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.

40. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

41. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

42. Alterations or additions, either internal or external, shall not be made to the premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

### **Provision of Relevant Entertainment**

43. 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.

44. The Licensee shall implement a policy to ensure the safety of the performers when they leave the premises after a period of work.

45. 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.

46. 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.

47. Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.

48. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
49. Performers are never to be in the company of a customer except in an area open to the public within the premises (excluding the toilets).
50. The Licensee must ensure that during the performance of a table or lap dance:
- (1) 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;
  - (2) customers must remain seated during the entire performance of the dance;
  - (3) for the purpose of restraint only, performers may only touch a customer above the customer's chest with their hands only;
  - (4) Performers must not sit or straddle the customer;
  - (5) Performers must not place their feet on the seats.
51. The Licensee must ensure that during performances of relevant entertainment:
- (1) Performers may not perform any act that clearly simulates any sexual act;
  - (2) 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;
  - (3) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
  - (4) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
  - (5) 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;
  - (6) Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council
52. The Licensee must ensure that during performances of relevant entertainment:
- (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
  - (2) Customers must remain appropriately clothed at all times.
53. 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:-
- (i) The payment of an entry fee by customers to authorised members of staff.
  - (ii) The payment of a fee for relevant entertainment.
  - (iii) The purchasing of drinks by customers from authorised members of staff.
  - (iv) The placing of bank notes by the customer in a garter worn by females or an armband worn by males.
  - (v) SIA door staff in the execution of their duties.

54. Relevant entertainment will only take place in specified designated areas within the premises, as identified on the plan attached to the licence.
55. Performers shall 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 to behave inappropriately, the customer shall be requested to leave the premises and should be escorted from the premises by appropriately authorised staff (i.e. SIA registered door supervisors).

**Licensed Name**

56. (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.