

Licensing Committee

Grand Jury Room, Town Hall
7 November 2013 at 6.00pm

The Licensing Committee deals with policy issues relating to licensing matters and applications and appeals concerning hackney carriage and private hire vehicles and drivers and other appeals.

Information for Members of the Public

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**COLCHESTER BOROUGH COUNCIL
LICENSING COMMITTEE
7 November 2013 at 6:00pm**

Members

Chairman : Councillor Nick Cope.
Deputy Chairman : Councillor Julia Havis.
Councillors Mary Blandon, Margaret Fairley-Crowe,
Pauline Hazell, Mike Hogg, Brian Jarvis, Margaret Kimberley,
Michael Lilley and Gerard Oxford.

Substitute Members :

Agenda - Part A
(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched to silent;
- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they

wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

5. Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6. Minutes

1 - 7

To confirm as a correct record the minutes of the meetings held on 22 May, 21 June, 3 July and 11 September 2013.

7. Sex Establishment Policy // Revisions

8 - 80

See report by the Head of Professional Services.

8. Exclusion of the public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

LICENSING COMMITTEE

22 MAY 2013

Present: - Councillor Mary Blandon, Nick Cope, Margaret Fairley-Crowe, Julia Havis, Pauline Hazell, Mike Hogg, Brian Jarvis, Margaret Kimberley, Michael Lilley and Gerard Oxford

1. Appointment of Chairman

RESOLVED that Councillor Cope be appointed Chairman for the ensuing Municipal Year

2. Appointment of Deputy Chairman

RESOLVED that Councillor Havis be appointed Deputy Chairman for the ensuing Municipal Year.

LICENSING COMMITTEE

21 JUNE 2013

Present: - Councillors Nick Cope, Julia Havis and Michael Lilley

3. Transfer of Sexual Entertainment Venue Licence // Climax

The Committee considered a report by the Head of Professional Services on an application to transfer the sexual entertainment licence in respect of the sexual entertainment venue at 27-30 St Botolph's Street, Colchester now known as Climax. The application had been submitted by Top Drawer Entertainments Ltd to transfer the sex establishment licence held by Exquisite Entertainments Ltd.

In presenting the application Mrs Adams outlined her previous experience of operating a Club in Watford, which had been considerably larger than the premises in Colchester. She stated that it was her intention to operate the premises in the same way as the previous owners. Mr D'Angelis, from Regency Security, addressed the Sub-Committee and informed it that he had worked under the previous owners and perceived no difference in the management of the premises and he intended to carry out the security in the same way. Mrs Adams in response to questioning stated that they would operate the same staffing levels as previously with one manager, 2 door staff and 2 bar staff. The manager would either be Mrs Adams; her husband, Dean Adams; or Ian Aguilar, a member of staff with whom they had worked for 15 years. It was acknowledged that they lived some distance from the premises but that the premises would be managed by staff she had worked with for a number of years and trusted. Mrs Adams explained that she would prefer to operate this way than employ local staff that she didn't know. The procedure for employing the girls who danced at the premises was set out and a letter was submitted from the Promises Agency who supplied professional artistes for the adult entertainment industry.

Two representations had been received from local Ward Councillors opposing the transfer of the licence on the grounds that the applicant was unsuitable to hold a licence. The letters of representation considered that there was insufficient information in the application with which to determine the application. Councillors Frame and Hayes attended the Sub-Committee and addressed the Hearing on their representations. They considered that as details were not given of the applicants' previous experience; the names and addresses of all those who would be responsible for managing the premises; and their intentions in relation to the management of the premises the Hearing should be adjourned in order to allow further information to be obtained.

The meeting was adjourned to enable the Sub-Committee to consider this request and take advice from its legal advisor, Mr Samuel. The Sub-Committee, having considered all the matters before it, determined that the meeting should proceed and application determined.

RESOLVED that-

(i) Having given full consideration to the application and the evidence presented to it, the transfer of the licence be approved. It also bore in mind the assurances given by the applicant that it would abide by the existing licence conditions including the management Plan and that there would always be one of the named managers on the premises during operating hours.

(ii) The licence be granted subject to the following condition –

That prior to any change of manager, the name and address of any new manager be provided to the Licensing Authority.

LICENSING COMMITTEE

3 July 2013

Present: - Councillors Mary Blandon, Nick Cope, Margaret Fairley-Crowe, Pauline Hazell, Mike Hogg, Brian Jarvis, Margaret Kimberley and Gerard Oxford

4. Licensing Service

The Committee considered a report by the Head of Professional Services giving details of the work done by the Licensing Service across the various areas of licensing in the past six months. In addition to the routine work carried out in dealing with applications the Licensing Specialist Unit was also involved in a number of meetings with partner agencies and customers. Work was ongoing on the taxi licensing policy and the licensing team's work on recurring billing had been completed. The work priorities for the next six months were identified as a review of the sex establishment licensing policy; the introduction of a policy on Scrap Metal Dealers; and recurring billing for gambling premises. In response to questions it was reported that a review of premises in the Borough offering licensable body piercing activities including tattooing, electrolysis, acupuncture and ear piercing was being undertaken and inspections of these premises would be taking place.

The Committee discussed the types of information it would like to see reported to the Committee in future which included information on billing and more information on areas of licensing work that were less familiar to the Committee such as street collection permits and house to house collections.

RESOLVED that further reports be made to the Committee on the work of the Licensing Team and that these include both items on specific licensing areas such as street collections and also general statistics on applications processed and information in relation to the annual fees and suspension of premises licences.

5. Licensing Committee Information and Training Session

The Committee noted that training had been arranged for 10 September 2013 on the key areas of licensing and this would be conducted by Jim Hunter from the Institute of Licensing. The venue was yet to be determined but the location and final arrangements would be sent to members as soon as possible.

RESOLVED that the arrangements be noted.

LICENSING COMMITTEE

11 SEPTEMBER 2013

Present: - Nick Cope Mike Hogg and Margaret Kimberley

The Committee resolved under Section 100A of the Local Government Act 1972 to exclude the public from the meeting for the following items as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972.

6. Hackney Carriage/Private Hire Appeal

The Committee considered a report by the Head of Professional Services concerning an appeal against the decision of the Food Safety & Licensing Manager to refuse to grant a hackney carriage/private hire driver's licence. The Food Safety & Licensing Manager and the appellant and his supporter attended, presented their cases and then withdrew for the Committee to consider the matter and make its determination.

RESOLVED that having carefully considered the evidence presented, the Committee determined to uphold the appeal and to grant a one year probationary licence subject to the standard conditions and to the additional condition that:

'if during the period of this probationary licence you receive any criminal or motoring convictions, or any fixed penalty notices, or do not fully comply with the Council's hackney carriage and private hire driver or vehicle licensing conditions, then this licence will be automatically revoked'.

LICENSING COMMITTEE

11 SEPTEMBER 2013

Present: - Councillors Mary Blandon, Nick Cope, Julia Havis, Pauline Hazell, Mike Hogg, Brian Jarvis, Margaret Kimberley, Mike Lilley and Gerard Oxford

7. Sex Establishment Policy // Revisions

The Head of Professional Services presented a report setting out the proposed changes to the Council's Statement of Licensing Policy for Sex Establishments. The review had been carried out to ensure that the policy reflected recent case law and met the operational needs of the service. The key changes related to the use of a new application form, the setting of fees and the imposition of conditions but a number of minor amendments had also been made. The changes were shown on the policy attached as an appendix to the report. It was agreed that in addition to the legislative requirements to place a notice of an application in the newspaper and on site, that details of the application be placed on the Council's website.

It was proposed to consult on the proposed changes and in addition to putting the consultation on the Council's website for public comment it was intended to send a copy to the Police and those businesses already holding a sex entertainment licence issued by the Authority. At the end of the consultation period the matter would be reported to the Licensing Committee together with any comments received before being referred to full Council for approval.

RESOLVED that the amendments to the Statement of Licensing Policy for Sex Establishments be noted and approved for the purposes of public consultation.

The Chairman had agreed pursuant to the provisions of Section 100B(4)(b) of the Local Government Act 1972 to consider the following item at the meeting as a matter of urgency because the need to have the governance arrangements in place to enable the Council to discharge its functions under the Scrap Metal Dealers Act 2013 came into effect on 1 October 2013.

8. Scrap Metal Dealers Act 2013

The Committee considered a report by the Monitoring Officer on the changes to the terms of reference of the Licensing Committee and the scheme of delegation to officers necessitated by the new Scrap Metal Dealers Act 2013 which would come into effect on 1 October 2013.

The Scrap Metal Dealers Act 2013 had been introduced in response to the growth in metal thefts, driven by increased commodity costs, which was having a damaging and disruptive effect on the country's infrastructure. The new legislation brought together

the licensing of scrap metal dealers and motor salvage and would require both sites and operators to be licensed. The licensing regime introduced by the new Act was very similar to that for the licensing of taxi drivers and personal licence holders in which the suitability of applicants is assessed on a number of factors, outlined in the Act. The proposed changes to the terms of reference and the scheme of delegation were set out in the report. It was expected that straightforward applications would be determined by the Head of Professional Services under delegated powers but any disputed decisions would need to be heard by a Licensing Sub-Committee with a further right of appeal to the Magistrates Court.

RESOLVED –

- (i) To recommend to Council that it approves the changes to the Licensing Committee's terms of reference as set out in paragraphs 2.8 (a) and (c) of the report to the Licensing Committee subject to the amendment in the final paragraph of 2.8 (c) to read "to revoke or vary licence applications under the Scrap Metal Dealers Act 2013, where appropriate, where representations have been received".
- (ii) That subject to recommendation (i) above the amendments to the Scheme of Delegation to Officers as set out in paragraphs 2.8 (b) and (d) of the report to the Licensing Committee be approved.
- (iii) That the Monitoring Officer be authorised to make all necessary amendments to the Constitution to give effect to the contents of the report to the Licensing Committee.



Licensing Committee

Item

7

7 November 2013

Report of	Head of Professional Services	Author	Martin Nelson
Title	Statement of Licensing Policy for Sex Establishments		
Wards affected	All		

This report provides background information to the attached proposed final draft of the Council's Statement of Licensing Policy for Sex Establishments following that Policy's scrutiny by Counsel and the public consultation process that was carried out.

1. Decisions Required

- 1.1 Members are asked to consider the attached proposed final draft Statement of Licensing Policy for Sex Establishments following the incorporation of amendments that have resulted from the legal opinion given on the Policy by our appointed Counsel.
- 1.2 The Licensing Committee is then asked to formally adopt the revision of the Statement of Licensing Policy as it stands, thus enabling its use by the Council in considering future applications.

2. Reasons for Decisions

- 2.1 To improve the application form to ensure that all the relevant information on which the Committee can base its decision is made available as part of the application process and to make changes to the policy to ensure it reflects recent case law and and the operational demands of the service.

3. Alternative Options

- 3.1 To leave the application form and the Policy as it as and continue to use the existing form.

4. Supporting Information

- 4.1 A report was brought before the Committee on 11 September 2013 with details of the proposed new application forms for use by applicants in applying for a sex establishment licence and with a proposed draft Statement of Licensing Policy. The Policy had been amended to ensure that it reflected recent case law and the operational demands of the service.
- 4.2 The Policy was sent to the Police and to those holding sex establishment licences issued by the Council. It was also been sent to a leading licensing barrister for legal scrutiny. Ward Councillors were invited comment on the proposed draft Policy and a

copy of the Policy and an invitation to comment on it was also placed on the Council's website.

- 4.3 Counsel has now given his opinion on the draft Statement and his suggested amendments to the Policy have been incorporated into the original draft. The amended final draft is attached to this report (see Appendix 1). By adopting the amendments suggested by Counsel, the Policy itself will be stronger and more robust.

5. Strategic Plan References

- 5.1 The provisions introduced by Section 27 of the Policing & Crime Act 2009, which amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, required all premises operating as sex establishments in the Council's area to be licensed. These provisions link to the Council's strategic plan for improving our streets and local environment.

6. Consultation

- 6.1 Unlike other Licensing Policy Statements, such as those for alcohol and gambling, there are no statutory provisions regarding consultation on this particular policy. Therefore, in formulating a suggested process, consideration was given to the general principles and case law concerning consultation. There have been no comments on the policy or the application form from the general public and only one from a Councillor endorsing the changes.

7. Publicity Considerations

- 7.1 Publicity on the draft Sex Establishment Policy was not required by legislation but has been provided by inviting various representative bodies to comment on the policy and by placing it on the Council's website and inviting comment.

8. Financial Implications

- 8.1 Other than as yet unknown, but minimal, costs of any publicity or printing costs concerning the publication of the final approved Policy, there have also been some costs incurred by the Licensing Authority in having sought Counsel's opinion on the proposed draft revised Policy.
- 8.2 There may also be costs incurred in defending any action brought against the Council which seeks to judicially review the Statement of Licensing Policy. However, having sought Counsel's opinion and agreed to the amendments that Counsel has suggested, the Policy is undoubtedly more robust and compliant with the law and national guidance. Therefore any such action is considered unlikely to be successful.

9. Equality, Diversity and Human Rights Implications

- 9.1 The draft revised Statement of Licensing Policy has been developed in accordance with and has taken account of, all relevant legislation and national and local strategies.

- 9.2 An Equality Impact Assessment can be found on www.colchester.gov.uk > Council and Democracy > Policies, strategies and performance > Diversity and equality > Equality Impact Assessments > Equality Impact Assessments for Environmental and Protective Services > Sex Establishments Policy.

10. Community Safety Implications

- 10.1 The adoption by the Council of the amendments made to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as introduced by Section 27 of the Policing & Crime Act 2009, has enhanced community safety by increasing the matters the Council is able to consider when determining applications to provide relevant entertainment at sexual entertainment venues, and by allowing 'local people' to have a greater input into the process.

11. Health and Safety Implications

- 11.1 Not applicable within the context and recommendations of this report.

12. Risk Management Implications

- 12.1 A flexible yet robust revised Statement of Licensing Policy will continue to provide both the Council and the Licensing Authority with a sound basis for decision making in relation to proposals to establish Sex Establishments within the Borough.

Colchester Borough Council

Statement of Licensing Policy for Sex Establishments (including Sex Shops, Sexual Entertainment Venues and Sex Cinemas)

This policy sets out the Council's proposed approach to regulating sex establishments and the procedures it will adopt in relation to applications for sex establishment licences.

The policy is intended as a guide to applicants, licence holders, objectors and members of the licensing committee and provides information on what the Council expects to see in relation to an application. The advice and guidance contained in the appendices attached to the policy are intended only to assist applicants and other parties and should not be interpreted as legal advice. All parties are advised to seek their own legal advice if they are unsure of any of the requirements of the legislation in so far as they relate to the licensing of sexual entertainment venues. It should be noted that the Council, as licensing authority, is required to implement the licensing regime in accordance with the law and not in accordance with any moral codes.

Any comments on this policy should be sent to:-

Colchester Borough Council
Head of Professional Services
Licensing Specialist Unit
33 Sheepen Road
Colchester
Essex
CO3 3WG

Or by e-mailing EPS.Support@colchester.gov.uk or by telephoning Customer Services on 01206 282222

September 2013

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1. Adoption of legislation

- 1.1 Colchester Borough Council resolved to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 on 14 October 1982. This provided the Council with the ability to license sex establishments. The Policing and Crime Act 2009 amended the Miscellaneous Provisions Act, in so far as it related to the licensing of sex establishments, by adding the new category of “sexual entertainment venue”.
- 1.2 On 13 October 2010 the Council resolved to re-adopt Schedule 3 of the Miscellaneous Provisions Act, as amended by the Policing and Crime Act 2009, thereby requiring all premises operating as sex establishments in the Council’s area to be licensed. The definition of sex establishments now includes sexual entertainment venues. Adoption of Schedule 3 also allows the Council to set terms, conditions and fees for the grant, renewal, transfer and variation of such licences and the number of licences that may be issued in the area. The provisions of the Act came into effect, after advertisement, in the Colchester Borough area on 31 January 2011.

2. Definition of ‘Sex Establishment’

- 2.1 A ‘sex establishment’ is defined under the Act as a ‘sex shop’, a ‘sex cinema’ or a ‘sexual entertainment venue’. Full definitions of those terms can be found in **Appendix A** to this policy.

3. Existing Premises

- 3.1 To date the Council has not imposed a restriction on the number of sex establishment licences that can be issued. The town currently has 2 licensed sex shops located in Butt Road, Colchester. In addition, there is a premises in St Botolph’s Street providing adult entertainment in the form of lap dancing or similar entertainment. This is currently licensed as “regulated entertainment” under the provisions of the Licensing Act 2003.
- 3.2 These premises are shown by Ward in the table below.

Ward	Sex Shop	Sexual Entertainment Venue	Sex Cinema
Castle		1	
Christ Church	1		
New Town	1		

- 3.3 The Council recognises that there are existing businesses in the Borough providing such services and it is the Council’s policy to allow these licences to be maintained. However, in the event that these existing premises cease to trade there will be no presumption that a licence will be granted to a new applicant wishing to trade in the same location.

4. Location of Licensed Premises

4.1 The Council has a discretion to refuse to grant or renew licences for sex establishments on the grounds that the licence would be inappropriate having regard to the character of the locality or the use of premises in the vicinity. Without prejudice to other elements of the policy, and whilst treating each new application on its own merits, the Council's policy is ordinarily to refuse licences on these grounds for premises that are in close proximity to;

- (a) residential accommodation;
- (b) schools, nurseries and other premises used by children and vulnerable persons;
- (c) parks or other recreational areas used by children and other vulnerable persons;
- (d) religious centres and places of religious worship;
- (e) youth, community and leisure centres;
- (f) access routes to and from premises listed above;
- (g) historic buildings or visitor attractions;
- (h) an area designated either as an area under regeneration, or due to be regenerated.

5. Impact

5.1 The Council, in considering whether the discretionary grounds for refusal apply and whether the licence should be refused on such grounds, will take into account the following, where it is relevant to do so:

- (a) the type of activity, the duration of the licence and the proposed hours of operation;
- (b) the layout and condition of the premises;
- (c) any cumulative and adverse impact of existing sexually related licensable activities in the same locality as the proposed premises;
- (c) crime and disorder issues;
- (d) any evidence relating to actual or likely noise or disturbance caused by the premises;
- (e) the character of the locality;
- (f) the use of other premises in the vicinity.

Comment [PK1]: I would suggest adding: the impact on the area as a result of the external appearance of the premises (including signage, lighting, advertising, images and upkeep) and exterior activities (including smoking, queuing, dispersal, use of exterior by performers including to smoke, touting, leafleting, use of advertising vehicles etc.)

6. Suitability of the Applicant

6.1 The Council, in considering whether the applicant or applicants are fit and proper to hold a licence will take into account the following, where it is relevant to do so:

- (a) the operation of existing or previous licences held by the applicant, including their track record of compliance;

- (b) their experience and knowledge of the type of sex establishment they are applying to run;
- (c) their ability to comply with the licensing requirements and minimise the impact of the business on local residents and businesses;
- (d) any reports concerning the applicant received from the Police or any other source;
- (e) the honesty of the applicant(s);
- (f) whether the applicant(s) intend to operate the premises or employ other people to do so;
- (g) whether the management proposed will deliver compliance with operating conditions through managerial competence; presence; a credible management structure including individuals experienced in running premises of this nature; enforcement of rules internally through training, monitoring and the publication of rates for performers and customers; a viable business plan;
- (h) whether management can be relied upon to act in the best interests of the performers;
- (i) whether there is a written welfare policy for performers and how this is to be enforced;
- (j) what system is in place to ensure that performers are adults and entitled to live and work in the UK;
- (k) whether management can be relied upon to protect the public by, for example, transparent charging and freedom from solicitation.

7. Applications

- 7.1 An application for the grant, renewal, transfer or variation of a licence must be made in writing to the Council in accordance with the requirements shown in **Appendix B** of this policy document.
- 7.2 A specimen example of the Council's application form and also a notice for the newspaper and public advertisement of the application; and the form of certificate for site notice are attached as **Appendices C, D and E** of this document.
- 7.3 An application can be served on the Council as follows:-
- (a) by post to Head of Professional Services, Licensing Specialist Unit, 33 Sheepen Road, Colchester, CO3 3WG
 - (b) by personal service to the Head of Professional Services , Licensing Specialist Unit, 33 Sheepen Road, Colchester, CO3 3WG
 - (c) by e-mail to EPS.Support@colchester.gov.uk;
 - (d) by fax to 01206 – 282598
 - (e) on-line (when the facility becomes fully operational).
- 7.4 The Council encourages applicants to serve their applications and other notices on it electronically. In line with the Provision of Service Regulations 2009, where an application for the grant, renewal, variation or transfer of a licence is submitted electronically, the Council will send a copy of the

application to the Chief Constable of Essex Police not later than 7 days after the date that the application is received. In all other cases, it will still be the responsibility of the applicant to serve a copy on the Chief Constable of Essex Police within 7 days of submitting an application to the Council.

7.5 The Council expects that any premises for which a licence is required should have either planning consent or lawful use under planning legislation for the intended use and hours of operation. The Council will not treat licensing applications as a re-run of a planning application however, and it will not seek to impose licensing conditions which duplicate conditions that have been imposed on a planning consent.

7.6 The Council will notify relevant Ward Councillors of an application in their area and will include a summary of the application on the Council's website.

8. Fees

8.1 The licence fees for all sex establishments including sexual entertainment venues have been reviewed and set at a level that is reasonable and proportionate to the effective cost of administering the application and licensing process.

8.2 The application process involves paying a non-returnable application fee. The fees will be reviewed annually by the Council having regard to the costs associated with each application in the previous year. Any profit from the payment of a licence fee will be considered in setting the following year's fee. Fees are set annually by the Portfolio Holder for Street and Waste Services and are published on the Council's website. The current schedule of fees can be found at www.colchester.gov.uk/licensing

Comment [PK2]: I suggest adding "including monitoring of compliance." If that is done, then the paragraph is consistent with Hemming.

9. Advice and Guidance

9.1 The Council will seek to liaise with applicants and, wherever possible and necessary, mediate between applicants and objectors in order to achieve a satisfactory outcome for all stakeholders. Applicants are advised to discuss their proposals with the Council and any interested parties prior to an application being made.

10. Grant, renewal, variation or transfer of licences

10.1 The Council may grant to any applicant and renew a licence for the use of any premises as a 'sex establishment' on such of the terms and conditions specified by the Council which are shown in **Appendix G** of this document and/or any special conditions imposed on the merits of the individual case.

10.2 A licence once granted will usually remain in force for 12 months, but can be issued for a shorter period if deemed appropriate. In order to continue

Deleted: 8.2 The application process involves paying a non-returnable application fee. The fees will be reviewed annually by the Council payment of a licence fee will be deducted from the following year's fee. The current schedule of fees can be found on the Council's website at www.colchester.gov.uk/licensing

the current schedule of fees is shown at **Appendix D**. No further fees will be applied by the Council in the event that objections are received to an application and a hearing is required to determine the application. However, should the application be subsequently refused, the proportion of the fee associated with enforcement will be refunded.

Deleted: or transfer

Deleted: .

operating as a sex establishment the licence holder must make a renewal application to the Council prior to the expiry of the existing licence.

- 10.3 An application to transfer a licence to any other person may be made.
- 10.4 Where an application for renewal or transfer of a licence is made before the expiry of the existing licence, the licence shall remain in force until such time as the application has been determined.
- 10.5 The holder of a licence may apply to the Council to vary the terms, conditions or restrictions on, or subject to which, the licence is held.

12. Objections

- 12.1 Anyone wishing to object to an application must do so in writing within 28 days of the application being made to the Council. Representations can be made via-
 - (a) by post to Head of Professional Services, Licensing Specialist Unit, 33 Sheepen Road, Colchester, CO3 3WG
 - (b) by personal service to the Head of Professional Services, Licensing Specialist Unit, 33 Sheepen Road, Colchester CO3 3WG
 - (c) by e-mail to EPS.Support@colchester.gov.uk;
 - (d) by fax to 01206 – 282598

The objection must state the grounds on which it is made.

- 12.2 A person making a representation must state their full name and address and their grounds for objecting to the application. ~~The Council will not consider objections that are frivolous, vexatious or relate to moral grounds.~~

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- 12.3 The Council has the discretion to consider representations made after the 28 day consultation period. The Council's acceptance of late representations will be assessed on a case by case basis having regard to the length of delay, the mitigating reason or circumstances that caused the delay and the amount of time before the hearing date that the applicant has to consider the representation.

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- 12.4 Where written objections are made the Council will provide copies to the applicant. However, the Council will not ~~divulge~~ the identity of the objector/s to the applicant without their permission to do so.

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- 12.5 Where objections are made and are not withdrawn, a hearing before members of the Licensing Committee will normally be held within 20 working days of the end of the objection period, unless all parties agree in writing beforehand that a hearing is no longer necessary. The Council may under certain circumstances need to hold a hearing later than 20 working days after the end of the objection period and may do so at its discretion.

12.6 There is no explicit provision in the legislation for objectors to be heard at a hearing. However it is likely that in most cases the Council will use its discretion to allow objectors or their representative to put their case at a hearing. The Council must be notified in writing by the objector, prior to the hearing, if they wish someone else to speak on their behalf.

13. Determining applications

13.1 The Council will consider each application in its own right and on its own merit.

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13.2 When considering applications, the Council will have regard to:

- (a) the Local Government (Miscellaneous Provisions) Act 1982
- (b) the Human Rights Act
- (c) the Provision of Services Regulations
- (d) Section 19 of the Crime and Disorder Act 1998
- (e) the Equality Act
- (f) any supporting or accompanying regulations;
- (g) this Statement of Licensing Policy.

13.3 When determining applications, the Council will take account of any written objections, comments or observations made by the Chief Constable of Essex Police and any objections made by other interested parties.

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14. Conditions

14.1 No condition will be imposed by the Council that cannot be shown to be appropriate, reasonable and proportionate to the application that has been submitted.

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14.2 In the event that conditions are attached to the grant of a licence they will be adapted to the operating circumstances and requirements of the individual premises and may also take into account any objections, comments or observations received, particularly where they have been received from the Chief Constable of Essex Police.

14.3 The Council may attach any of those conditions shown in **Appendix G** which are relevant to the activities granted to the sex establishment licence applied for. These conditions are not exhaustive however and further conditions may be applied to the licence, on the advice of the Chief Constable of Essex Police, or may be attached by the Council following a hearing by Members of the Committee that the Council has had to convene to consider relevant objections to an application submitted for a sex establishment licence

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15. Refusal of Licences

15.1 Except where the Council is prohibited from granting, renewing, varying or transferring a licence, it will not refuse a licence without first;

- giving the applicant or holder of the licence the opportunity of appearing and making representations before a hearing of the Committee;

- notifying the applicant or holder of the licence in writing of the reasons;

15.2 The circumstances in which the Council must or may refuse a licence are shown in **Appendix F** of this document.

16. Appeals

16.1 In all cases for the grant, renewal, variation or transfer of a sex establishment licence, applicants that are aggrieved by a decision of the Council relating to a refusal on mandatory issues are entitled to appeal to the Magistrates' Court. Appeals against refusals on discretionary grounds are not permissible unless they relate to the suitability of persons involved in the business. In the case of refusals under Schedule 3 paragraph 12(3)(c) or (d) of the Local Government (Miscellaneous Provisions) Act 1982 an applicant or objector can challenge a refusal of an application by way of seeking a judicial review of the Council's decision.

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17. Revocation of Licences

17.1 The Council may revoke a sex establishment licence;

- on any of the mandatory grounds specified in paragraph 1 of **Appendix F** of this policy document;
- on either of the discretionary grounds specified in paragraph 2(a) and (b) of **Appendix F** of this policy document.

17.2 The Council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a hearing of the Committee.

18. Cancellation of Licences

18.1 The licence-holder may surrender the licence at any time and may request the Council in writing to cancel the licence.

18.2 In the event of the death of a licence holder, the licence will be deemed to have been granted to their personal representative(s) and will remain in force for 3 months from the date of death, unless previously revoked.

18.3 Where the Council is satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, it may extend or further extend the period for which the licence remains in force.

19. Complaints

19.1 Wherever possible and appropriate the Council will give early warning to licence holders of any concerns which have been identified at premises and of the need for any improvements to the way that the premises is operated. It is hoped and expected that licence holders will actively participate in such dialogue.

20. Enforcement

20.1 The Council is responsible for the administration and enforcement of the licensing regime and will carry out its regulatory functions in a fair, open and consistent manner.

20.2 Specifically, the Council is committed to:

- (a) be proportionate – to only intervene when necessary and when remedies will be appropriate to the risk posed;
- (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
- (c) be consistent – to implement rules and standards fairly;
- (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
- (e) target its regulatory action at cases in which action is needed.

20.3 The Council recognises and acknowledges the interests of residents, visitors and businesses and will actively work closely with its partners to assist licence holders to comply with the law and the conditions attached to their licence.

20.4 ~~Appropriate~~, reasonable and proportionate enforcement action will be taken by the Council against those who commit serious offences or consistently break the law or breach the conditions of their licence.

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20.5 The Council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been adopted that explains how the Council will undertake its role and how the principles of effective enforcement will be achieved.

20.6 This policy is freely available from the Council, as are details of its corporate complaints procedures, both of which can also be viewed on the Council's website; www.colchester.gov.uk or further details can be provided by the Councils Customer Service Centre by e-mailing EPS.Support@colchester.gov.uk or by phoning customer services on 01206 282222.

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21. Human Rights

21.1 When considering transitional applications or new applications, the Council will take into account rights that the applicant has under Article 1, Protocol 1 of the European Convention of Human Rights (peaceful enjoyment of

possessions) and Article 10 (freedom of expression). The Council also acknowledges that 'freedom of expression' extends to the right to use particular premises as a sexual entertainment venue in line with the judgment in *Belfast City Council v Miss Behavin' Ltd* in 2007.

22. Updates to this policy document

- 22.1 The Council may update this policy document with any changes that have been made by legislation or accompanying guidance, or to the Council's own terms and conditions. The policy will be reviewed as and when the Council considers it appropriate. If the Council considers that the changes are of significant importance to applicants or to other interested parties the Council will put those changes out to public consultation. Minor amendments to this policy document and associated procedures will be made at the Council's discretion and will not be subject to any public consultation or comment.

Definitions

- The Act – refers to the Local Government (Miscellaneous Provisions) Act 1982
 - Authorised Officer - any Officer of the Council authorised under the Council's Scheme of Delegation as detailed within the Council's Constitution
 - The Council - refers to Colchester Borough Council
 - Licence Holder - a person or persons who holds a sex establishment licence under the Act
 - This Policy - refers to Colchester Borough Council's sex establishment policy
 - Premises - a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a sex establishment licence granted under the Act. It includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
 - Sex Establishment - as defined in section 2 of Schedule 3 of the Act
 - A Sex Establishment means a sexual entertainment venue, a sex shop or a sex cinema as defined below in extracts from the Act.
 - Sexual Entertainment Venue - as defined by Paragraph 2A of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as inserted by Section 27 of the Policing & Crime Act 2009.
 - Relevant National Authority – in relation to England means the Secretary of State.
- (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. (An audience can consist of just one person).

The organiser means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. While in most instances this is likely to refer to the manager of the premises, it could also mean a person who is responsible for organising the entertainment on behalf of persons responsible for the management of the premises. This will therefore mean that the organiser must be a person who is in a position of responsibility over the provision of the relevant entertainment and will not be interpreted as meaning

a member of staff employed to work during the provision of relevant entertainment).

(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 verbally or other means).

- Paragraph 2A(14) of Schedule 3 defines a “**display of nudity**” as being in the case of a woman, it means the exposure of her nipples, pubic area, genitals or anus and in the case of a man; it means exposure of his pubic area, genitals or anus.

However, a display of nudity included in for example a part of a theatre or drama performance, will not require a sex establishment licence unless it is being provided solely or principally for the purpose of sexually stimulating any member of the audience (whether verbally 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 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 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.

- Spontaneous entertainment - Where activities take place at a premises that would ordinarily be considered as relevant entertainment but are not provided for financial gain of the organiser or entertainer such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not

be considered as a sexual entertainment venue by virtue of those circumstances alone.

- Sex Cinema as defined in Section 3 of Schedule 3 of the Act-

(1) In this Schedule, “**sex cinema**” means 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, but does not include a dwelling-house to which the public is not admitted.

(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 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 the Cinemas Act 1985.

- Sex Shop as defined in Section 4 of Schedule 3 of the Act

(1) In this Schedule “**sex shop**” means 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.

(3) In this Schedule “**sex article**” means-

(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 of vision or sound, which-

(i) is concerned 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.

Appendix B

Requirements for applying for grant, renewal, variation or transfer, of a sex establishment licence

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Grant of a licence

- 1) To apply for the grant of a sex establishment licence an applicant must: -
 - a) send the Council: -
 - i) a completed application form;
 - ii) a plan to the scale of 1:100 of the premises to which the application relates;
 - iii) an application fee of xxxxxxx;
 - b) display a notice on or near the premises;
 - c) advertise the application in a newspaper or similar publication circulating in the local area
 - d) send a copy of the application and plan to the Chief Constable of Essex Police, Essex Police, 10 Southway, Colchester, CO3 3BU within 7 days of making the application to the Council.

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Plan requirements

- 2) The plan shall show:
 - a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
 - b) the location of points of access to and egress from the premises;
 - c) the location of escape routes from the premises;
 - d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
 - e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
 - f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
 - g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
 - h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
 - i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
 - j) the location of a kitchen, if any, on the premises.
- 3) The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

Public notices

- 4) A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the

application was given to the Council, where it can be conveniently read from the exterior of the premises.

- 5) Where the premises frontage extends for more than 50 metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.
- 6) The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
- 7) The notice must state: -
 - a) details of the application and activities that it is proposed will be carried on or from the premises,
 - b) the full name of the applicant,
 - c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
 - d) the date, being 28 days after that on which the application is given to the council, by which representations may be made to the Council and that representations should be made in writing,
 - e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5000) for which a person is liable on summary conviction for the offence.
- 8) A similar notice must be published in a local newspaper or similar publication within 7 days of giving the application to the Council.

Variation of a licence

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

Renewal of a licence

- 11) The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.

12) If all the details remain the same on renewal of the licence Application Form B can be submitted. If any matters have changed on renewal then the process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

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Transfer of a licence

13) A person may apply for transfer of a licence at any time.

14) The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

For details on how the Council intends to process applications, including those to which objections are made, please see Section 7 of this policy document entitled '**Applications**'.

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FORM A

Application for the grant/renewal/ variation/transfer of a sex establishment licence

Pursuant to Schedule 3, Local Government
(Miscellaneous Provisions) Act 1982

IMPORTANT NOTES

1. All questions must be answered save where otherwise stated. If relevant questions are not answered, the application will be deemed incomplete and returned to the Applicant.
2. Any person who, in connection with an application for a grant, renewal or transfer of a sex establishment licence makes a false statement which he knows to be false in any material respect of which he does not believe to be true is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.
3. Please return –
By Post or in person to – Licensing Professional Support Unit, Colchester Borough Council, 33 Sheepen road, Colchester CO3 3WG
By email- EPS.Support@colchester.gov.uk
By Fax – 01206 282598

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Part A – The Applicant

Question 1:

Is the applicant:

- a. An individual?

- b. A company or other corporate body?
- c. A partnership or other unincorporated body?

If the applicant is an individual, answer question 2.

If the applicant is a company or other corporate body, answer questions 3 and 4.

If the applicant is a partnership or other unincorporated body, answer question 5.

Question 2:

Answer only where the applicant is an individual.

1. What is the full name of the Applicant?

2. Has the Applicant ever been know by a different name? If so, state the Applicant's former name.

Go to Question 5

Question 3:

Answer only where the Applicant is a company or other corporate body.

1. What is the name of the Applicant?

2. Where is the Applicant registered?
3. What is the registered number of the Applicant?
4. Has the Applicant been known by any and if so what name?
5. Has the Applicant:
 - Ever been convicted of a criminal offence?
 - Ever had a grant or renewal of a sex establishment licence refused or a sex establishment revoked?
 - Ever been served with a winding up petition?

If the answer to any of these questions is Yes, please provide full details.

6. What are the names of the Applicant's Directors and Company Secretary?
7. Are there persons responsible for the management of the Applicant other than the Directors and the Company Secretary? If so, state their names.
8. State the names of all persons with a shareholding greater than 10% in the Applicant.
9. Is the Applicant a wholly owned subsidiary of another company or corporate body? If so state the name, place of registration and identity of its Directors and Company Secretary.

Go to Question 5

Question 4:

Answer only where the Applicant is a partnership or other unincorporated body

1. What is the name of the Applicant?
2. What are the names of the Applicant's partners?
3. Are there persons responsible of the management of the Applicant other than the partners? If so, state their names.
4. Has the Applicant ever had a grant or renewal of a sex establishment licence refused or a sex establishment licence revoked?

If the answer is YES, provide full details.

Go to Question 5

Question 5:

Does the Applicant have a trading name different from that given in answer to questions 2,3 or 4 above? If so, state the trading name

Question 6:

What is the applicant's trading address?

Question 7:

Will the business for which the licence is sought be carried on for the benefit of a person other than the Applicant?

If the answer is Yes, state the name of such person(s). If such person(s) are a company or other corporate body state their place of registration and registered number, and the identity of all Directors, the Company Secretary, and those with a greater than 10% shareholding

Question 8:

Does the Applicant operate any other sex establishments, whether licensed or not? If so state the name, address and type of sex establishment (e.g. sex cinema, sex shop, sexual entertainment venue) of each.

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Name:

Address:

Type:

Question 9:

For each of the individuals named in the answers to Questions 2,3,4,7 and 8, please confirm that the form at Annex A to this application has been completed and submitted as part of this application.

Part B – The Premises, Vehicle, Vessel or Stall

Question 10:

Is this application in respect of:

- a. Premises
- b. Vehicle
- c. Vessel
- d. Stall

Question 11:

Answer only where the application is for a vehicle vessel or stall

Where is it proposed to use the vehicle vessel or stall?

Question 12:

Answer only where the application is for a premises.

What is the full address of the premises for which a licence is sought?

Question 13:

- a. Is the whole of the premises to be used as a sex establishment?
- b. If not, state the use of the remainder of the premises.

- c. State the names of those responsible for managing the remainder of the premises.

Question14:

- a. State the nature of the Applicant's interest in the premises, vehicle, vessel or stall e.g. owner, lessee, sub-lessee

- b. If the Applicant is a lessee or sub-lessee, state:
 - The name and address of the landlord

 - The name and address of the superior landlord, if any

 - The length of the unexpired term

- The length of notice required to terminate the tenancy

Question 15:

- a. State the current use of the premises.
- b. Is there a planning permission for the use of the premises, vehicle, vessel or stall as a sex establishment?
- c. If so, state the date of the planning permission.
- d. if not, state whether and why the use as a sex establishment is lawful, e.g. because there is a certificate of lawful use, giving full details.

Question 16:

- a. Are the premises, vehicle, vessel or stall licensed under any

other Act, e.g. the Licensing Act 2003?

Provide full details including the name of any Designated Premises Supervisor.

b. Does the Applicant intend to obtain a licence under any other Act or to apply to vary any existing licence under any other Act?

c. Does the Applicant intend to operate the sex establishment in conjunction with any other licence? If so, provide full details.

Question 17:

a. Is each customer access to the premises, vehicle, vessel or stall:

- Directly from the street or a public thoroughfare?
- From other premises?

If from other premises please provide full details.

- b. Is each customer access from the street to be supervised at all time the premises are open to the public?

If the answer is No give full details of proposed door control and supervision.

- c. State whether all door supervisors are to be licensed with the Security Industry Authority.

Question 18:

Are the premises, vehicle, vessel or stall so constructed or adapted and laid out as to permit access to, from and within the premises (including WC facilities) for members of the public who are disabled?

If the answer is No state the Applicant's proposals for affording such access.

Question 19:

- a. Are the premises, vehicle, vessel or stall being used as a sex establishment at the date of this application?

- b. If the answer is Yes, state the name and address of the person or body now operating the business.

Part C – The Business

Question 20:

Under what name will the business be known?

Question 21:

Is the application in respect of:

- a. A sex shop?

- b. A sex cinema?
- c. A sexual entertainment venue?

Question 22:

Has the Applicant entered into any agreement (whether written or oral) in connection with the business, other than a tenancy agreement or lease, for example, a management agreement, partnership agreement or profit share arrangement? If so, provide full details together with a copy of any such agreement.

Question 23:

Give the name and address of any lenders mortgages or others providing finance with the full terms of such agreements.

Question 24:

Is the business required to purchase merchandise from a particular person or body? If so provide full details.

Part D – Management of the Business

Question 25:

- a. State the identity of the person who will be responsible for the day to day management of the business at the premises, vehicle, vessel or stall ('the Manager')

- b. Confirm that the Manager will be based at the premises, vehicle, vessel or stall and that management of the business will be his/her sole and exclusive occupation.

- c. Which person(s) will be responsible for the day to day management of the business in the absence of the Manager ('the relief Manager').

- d. Confirm that the Relief Manager(s) or one of them will be based at the premises full-time in the absence of the Manager.

e. For each of the Manager and Relief Manager(s) confirm that the form at Annexe A to this application has been completed and submitted as part of this application.

Question 26:

This question need not be answered in the case of renewals

Give details of the times during which it is proposed to open the business.

Days of the week:

Hours of the day:

Question 27:

State proposals in respect of exterior signage and advertising, including the nature, content and size of such signage, and any images to be used.

Question 30:

State what age restrictions are to be applied in respect of admissions, and how they are to be enforced?

In answering state what forms of identity will be accepted and whether it is proposed to use electronic identification systems. For sex shops provide details of arrangements for preventing proxy sales.

Question 31:

State the arrangements for CCTV and for retention of recordings.

In answering, state whether all public areas are to be covered by CCTV at all times the business is open and whether the feed from all cameras

will be recorded.

Question 32:

Answer only where the application is for a sexual entertainment venue.

1. State whether the proposal is for full nudity.

2. Give full details of the nature of the entertainment, e.g. lap dancing pole dancing, stage strip-tease.

3. State what if any separation between performers and audience is proposed e.g. performers on stage, 1 metre, no contact or full contact.

4. State whether arrangements are proposed for private booths or areas. If so provide full details, including proposals for the supervision of such areas.

Question 33:

This question need not be answered in the case of renewals

1. State proposals for preventing nuisance to residents and businesses in the vicinity.

2. State proposal for promoting public safety.

3. State proposals for preventing crime and disorder.

4. State proposals for protecting children from harm.

5. Set out the Applicant's system for checking the age and right to work in the UK for all employees

6. For sexual entertainment venues, set out the system for training all staff in the Code of Practice for performers, and for monitoring and enforcing compliance.

Note, the Code of Practice must be attached to this form

7. For sexual entertainment venues, set out the system for notifying all customers of the Rules for Customers and for monitoring and enforcing compliance.

Note: the Rules for Customers must be attached to this form.

8. For sexual entertainment venues set out the system for monitoring compliance with the venue's Policy for Welfare of Performers.

Note the Policy for Welfare of Performers must be attached to this form.

Question 34:

Set out any further information which you wish the authority to take into account.

Include here any proposed conditions (you may attach a schedule of such conditions) or any reason relied upon to provide an exception to the authority's Sex Establishment Licensing Policy.

Question 35:

Is there any information on this form which you do not wish to be seen by members of the public? If so, state which information and the reasons why you do not wish it to be seen.

Part E – Applicant Contact Details

Please give the contact details which you would like to be used for the purposes of this application.

Name:

Organisation:

Address:

Telephone number:

Mobile Number:

Fax number:

E-mail address:

Part F – Signature and Declaration

The following declaration must be signed in all cases:

- a. If the Applicant is an individual, by that individual.
- b. If the Applicant is a partnership, by all individuals who are partners.
- c. If the Applicant is a company, by a director or the company secretary.
- d. In any other case, by a duly authorised officer of the Applicant.

Should the information provided in relation to this application form cease to be correct, or if there are any changes in the information provided in the application form between the date the application is submitted and the date it is determined, the Applicant must advise the licensing authority immediately. Failure to do so may result in any licence issued being revoked.

I/We certify to the best of my/our knowledge and belief that the information given in this application is complete and correct in every respect.

I/We agree to notify the Licensing Authority should any information given in this application change.

Name:

Position in Organisation:

Date:

Signature:

ANNEX A

Information on individuals

1. Name

2. Former name (if any)

3. Position in relation to Applicant (e.g. Director, Partner, Manager)

4. Date of Birth

5. Gender male/female

6. Permanent Residential Address

7. If resident at this address for less than 3 years, state previous address

8. Have you been resident in an EEA state for more than six months prior to the date of the application?

Deleted: the United Kingdom

9. Have you ever been disqualified from hold a sex establishment licence under Schedule 3 paragraph 17 of the Local Government (Miscellaneous Provisions) Act 1982?

If so give full details.

10. Have you ever been involved in the management of a business, whether as a proprietor, director, company secretary partner, manager, supervisor or otherwise which has had any of the following types of licence refused, refused on renewal, reviewed or revoked?

- Sex establishment licence
- Licence for the sale or supply of alcohol
- Licence for the provision of entertainment, whether sexual or otherwise.
- Personal licence under the Licensing Act 2003

If so provide full details.

11. Have you ever been convicted of a criminal offence whether in the United Kingdom or elsewhere?

If so, provide details of the date, convicting court, offence and penalty imposed.

12. To your knowledge are you currently the subject of any criminal investigation?

If so, provide full details.

13. Have you ever had any civil legal action taken against you?

If so, provide full details.

14. Have you ever been declared bankrupt or entered into an arrangement with creditors or an Individual Voluntary Arrangement?

If so, provide full details.

15. Have you ever been disqualified from acting as a company director?

If so provide full details.

16. Is there any other information which you believe the licensing authority would reasonably expect notice of or would you like the licensing authority to take into account when considering the information you have supplied?

|
If so, provide full details.

17. Is there any information in this annex which you do not wish to be seen by members of the public?

If so, state which information and the reasons why you do not wish it to be seen.

| I DECLARE THAT THE INFORMATION ON THIS FORM IS TRUE AND COMPLETE

Signed

Dated

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Arial

All applicants are required to send with this application: - (a) two plans showing the area to be licensed; (b) statutory declarations (Annex A to the application form) in respect of (i) the applicant, (ii) directors of any company applying for a licence and (iii) any other person who will be responsible for the management of the licensed premises; (c) A copy of the newspaper showing the public notice.

**Return by post or in person to: Licensing Professional Support Unit
Colchester Borough Council 33 Sheepen Road, Colchester, CO3 3WG**

Return by e-mail to EPS.Support@colchester.gov.uk

Return on line (when facility available)

Return by Fax to 01206 282598

NOTE: new application form

FORM B

Application for the renewal of a sex establishment licence where there have been no changes to the details required to be disclosed in relation to the applicants, the premises, the operation and management of the business

Pursuant to Schedule 3, Local Government
(Miscellaneous Provisions) Act 1982

IMPORTANT NOTES

1. **Please note this form should only be completed if there have been no changes in the details of the applicants, the premises, the operation and the management of the business.**

2. Any person who, in connection with an application for a renewal of a sex establishment licence makes a false statement which he knows to be false in any material respect of which he does not believe to be true is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.

3. Please return –

By Post or in person to – Licensing Professional Support Unit, Colchester Borough Council, 33 Sheepen Road, Colchester CO3 3WG

By email- EPS.Support@colchester.gov.uk

By Fax – 01206 282598

Applicant Contact Details

Please give the contact details which you would like to be used for the purposes of this application.

Name:

Organisation:

Address:

Telephone number:

Mobile Number:

Fax number:

E-mail address:

Application

I/We hereby apply for the renewal of the premises licence in respect of -
(premises details)

I/We certify that:

* there have been no changes in the details relating to the applicants [their partners, directors or persons responsible for their management or](#)

the premises, operation and management of the premises.

* the answers to questions 1 – 7 on the Form A application form submitted on [insert date] remain true and accurate.

I/We certify that I/we have not been convicted of a criminal offence whether in the United Kingdom or elsewhere in the past year.

I/We certify that I/we are not currently the subject of any criminal investigation.

Signature and Declaration

The following declaration must be signed in all cases:

- a. If the Applicant is an individual, by that individual.
- b. If the Applicant is a partnership, by all individuals who are partners.
- c. If the Applicant is a company, by a director or the company secretary.
- d. In any other case, by a duly authorised officer of the Applicant.

Should the information provided in relation to this application form cease to be correct, or if there are any changes in the information provided in the application form between the date the application is submitted and the date it is determined, the Applicant must advise the licensing authority immediately. Failure to do so may result in any licence issued being revoked.

I/We certify to the best of my/our knowledge and belief that the information given in this application is complete and correct in every respect.

I/We agree to notify the Licensing Authority should any information given in this

application change.

Name:

Position in Organisation:

Example of Newspaper Advert and Site Notice

COLCHESTER BOROUGH COUNCIL

Sex Establishment Licence Application

Notice of application for the grant/renewal/**variation**/transfer (delete as applicable) of a sex establishment licence pursuant to Schedule 3 of the Local Government (Miscellaneous Provisions) Act, 1982

TAKE NOTICE that on (date) (name of applicant(s) applied to Colchester Borough Council for the grant/renewal/transfer (delete as applicable) of a sex establishment licence

NAME AND ADDRESS OF PREMISES/LOCATION OF VEHICLE/VESSEL/STALL (delete as applicable):

(Please note that the precise address or location, sufficient to identify the location **and** extent of the premises, must be give)

DAYS AND HOURS OF OPERATION:

ACTIVITY; Sex Shop/sex cinema/ sexual encounter venue (delete as applicable)

INSPECTING THE APPLICATION: The application may be inspected at the offices of Colchester Borough Council, Angel Court, High Street, Colchester, CO1 1SP

OBJECTIONS: Any person wishing to support or object to this application should do so in writing to the Head of Environmental & Protective Services, Licensing Specialist Unit, Colchester Borough Council, 33 Sheepen Road, Colchester CO3 3WG or by email to EPS.Support@colchester.gov.uk. The grounds for objection must be stated in general terms and received by the Council by no later than (date – insert 28 days after the date of the application)*)

Field Code Changed

Please note that any written representations received in response to this application may be required to be made available for public inspection in accordance with the Local Government (Access to Information) Act 1985.

- Signed
- Name
- Organisation
- Address
- Date

Deleted: Please note that for site notices the notice must be printed on pink A3 paper in Black 20 point Times New Roman font.¶

Example of Certificate for Site Notice

FORM OF CERTIFICATE FOR SITE NOTICE

Notice of application for the grant/renewal/transfer/variation (delete as applicable) of a sexual establishment licence pursuant to Schedule 3 of the Local Government (Miscellaneous Provisions) Act, 1982

To Head of Professional Services,
Licensing Specialist Unit,
Colchester Borough Council,
33 Sheepen Road,
Colchester CO3 3WG

I CERTIFY that on the Day of XXXX I displayed a site notice of which a true copy is attached and ensured that the notice continued to be displayed on or at the premises at:-

in a prominent position so that it could easily be read by passers-by, and ensured that the site notice remained in position for at least twenty one days.

Date: _____ Signed: _____

Refusals and revocations of licences

Mandatory Grounds

1. The council must refuse to grant or transfer a licence if the applicant: -
 - (a) is a person under the age of 18;
 - (b) is for the time being disqualified from holding a sex establishment licence;
 - (c) not a body corporate and has not been resident in the United Kingdom or was not so resident for 6 months immediately preceding the date of the application;
 - (d) is a body corporate which is not incorporated in the United Kingdom;
 - (e) has, in the period of 12 months immediately preceding the date of the application, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

Discretionary Grounds

1. The Council may refuse-
 - (a) an application for grant or renewal of a licence on one or more of the grounds shown in paragraph 2 below;
 - (b) an application for transfer of a licence on either or both of the grounds shown in paragraph 2 (a) and (b) below.
2. The grounds for refusal are-
 - (a) That the applicant is unsuitable to hold a licence by reason of having been convicted of an 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;
 - (c) That the number of sex establishments or sex establishments of a particular kind in the relevant locality at the time that the application is made is equal to or exceeds the number which the Council considers is 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;
 - 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.
3. Nil may be an appropriate number for the purposes of paragraph (2)(c) above.

Standard Conditions applicable to Licences for Sex Establishments

Notes

The Council may attach any of the conditions which are relevant to the sex establishment applied for

- (i) Except where the context demands otherwise the singular includes the plural and the masculine includes the feminine.
- (ii) Nothing in these conditions shall be construed as interfering with (i) the discretion of the licensee or his representative regarding the admission of any person or (ii) the need to strictly comply with all relevant statutory requirements.
- (iii) These conditions are divided as follows-
 - Part 1 General
 - Part 2 Conditions which apply to all premises
 - Part 3 Conditions which apply to sex shops
 - Part 4 Conditions which apply to sex cinemas
 - Part 5 Conditions which apply to sexual entertainment venues
- (iv) In these rules all references to the British Standard (BS) shall be deemed to refer to the current standard.
- (v) A premises licence may also be required for the operation of a sex cinema.

Part 1 General

- 1. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
- 2. The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any enactment, by law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

Part 2 Conditions which apply to all premises

Exhibition of Licence

- 1. The copy of the licence and these Regulations which are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and exhibited in

a position that it can easily be seen by all persons using the premises. The copy of these Regulations shall be retained in a clean and legible condition.

Responsibility of Licensee

2. The licensee shall take all reasonable precautions for the safety of the public and employees and, except with the consent of the Council, shall retain control over all portions of the premises.
3. The premises shall not be used for regulated entertainment, exhibition or display of any kind unless the Council's consent has been first obtained and any necessary licence granted.

Conduct and Management of the Premises

4. The licensee, or a responsible person over 18 years of age and nominated by him in writing for the purpose of managing the sex establishment in his absence, shall be in charge of and upon the premises during the whole time it is open to the public. Such written nomination shall be continuously available for inspection by an officer authorised in writing by the Council. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge shall be conversant with these rules, a copy of which shall be held on the premises.
5. The licensee, or the responsible person approved under Regulation 4, shall maintain a daily register to be kept on the premises in which he shall record the name and address of any person who is to be responsible for managing the sex establishment in his absence and the names and addresses of those employed in the sex establishment. The register to be completed each day within 30 minutes of the sex establishment opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
6. The Licensee shall ensure that, during the hours the sex establishment is open for business, every employee wears a badge of a type to be approved by the Council bearing a photograph of the employee and indicating his name and that he is an employee.
7. A notice showing the name of the person responsible for the management of a sex establishment shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.
8. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council.

9. The licensee shall ensure that no part of the premises is used by prostitutes (male or female) for the purposes of soliciting or any other immoral purpose.
10. The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
11. Neither the licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.
12. No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.

External Appearance

13. No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any other matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except;
 - (i) any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence granted by the Council.
 - (ii) Such display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
14. The entrances, windows and openings to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.

State, Condition and layout of the premises

15. The premises shall be maintained in good repair and condition.
16. The number, size and position of the doors or openings provided for the purposes of the ingress and egress of the public shall be to the satisfaction of the Council and shall comply with the following requirements :-
 - (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".
 - (ii) Doors and opening other than exits which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "private".
 - (iii) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency

17. The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order. The external door shall only be opened at such times as person(s) require access and egress to the interior of the premises.
18. The licensee shall make provision in the means of access both to and within the premises for the needs of members of the public visiting the premises who are disabled.
19. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
20. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

Maintenance of the means of Escape

21. The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable in accordance with the approved arrangements.
22. All fire resisting and smoke stop doors shall be maintained self closing and shall not be secured open.

Fire Appliances

23. The premises shall be provided with fire appliances suitable to the fire risks on the premises, and such fire appliances shall be maintained in proper working order and shall be available for instant use.
24. The licensee shall comply with any fire precautions and safety measures that may be required of him by the Fire Authority.
25. Portable fire appliances shall be examined at least once a year and periodically tested in accordance with the current British Standard by a competent person and the date of such test shall be clearly marked on the appropriate extinguishers or on stout tabs securely attached to them. Extinguishers which incorporate an anti-freeze agent shall be examined and recharged in compliance with the manufacturer's instructions.

Lighting

26. The licensee or any other person concerned in the conduct or management of the licensed sex establishment shall, in the absence of adequate daylight, ensure that adequate lighting is maintained to the satisfaction of the Council in all parts of the premises to which the public and staff have access and is in operation continuously during the whole time the premises are open to the public.

27. The normal lighting levels and the lighting to 'EXIT' notices shall be maintained at all times and shall not in any circumstances be extinguished or dimmed while the public are on the premises provided that, so long as there is sufficient daylight in any part of the premises, artificial light need not be used in any part.

Electrical Installations

28. The electrical installation for the premises shall be maintained in a safe working condition, as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers.
29. Unless the Council decides otherwise an inspection certificate, as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers, for the electrical installation associated with the premises shall be submitted to the Council at least once every five years or such other time specified on the certificate. The certificate shall be signed by a qualified engineer.

Change of Use

30. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council and the Police has been obtained.
31. The Licensing Authority and Essex Police must be informed should the licensee seek to change the use of the establishment to another form of sex establishment.

Sale of goods

32. Neither sex articles nor 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 or a sexual entertainment venue.

Admission of Authorised Officers

33. Officers of the Council, Police, and other authorised agencies who are furnished with authorities which they will produce on request, shall be admitted immediately at all reasonable times and at any time the premises are open for business to all parts of the premises.

Part 3 Conditions which apply to Sex Shops

1. It is permitted to play music or words either via national or local radio stations or any pre-recorded means, but no material whatsoever of an adult theme or nature can be played or broadcast, whether by means of sound or moving picture.

Goods available in Sex Establishments

2. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show persons who are inside the sex shop the respective prices being charged.
3. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase, hire, exchange or loan and a notice to this effect is to be prominently displayed within the sex establishment.
4. No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Censors, and bears a certificate to that effect, or approved by the Council and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

Part 4 Conditions which apply to Sex Cinemas

Film Categories

1. The categories U, PG, 12, 15, 18 and RESTRICTED 18 have the following effect:

U	Universal – Suitable for all
PG	Parental Guidance. Some scenes may be unsuitable for young children.
12	Passed only for persons of 12 years and over.
15	Passed only for persons of 15 years and over.
18	Passed only for persons of 18 years or over
RESTRICTED (18)	Passed only for persons of 18 or over in specially licensed cinemas.

Deleted: who are members (or their guests) of a properly constituted club.

Exhibition of Films

2. 'Film exhibition' means film exhibitions as defined in the Cinemas Act 1985, i.e. any exhibition of moving pictures which is produced otherwise than by the simultaneous reception and exhibition of (a) television programmes, broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority or (b) programmes included in a cable programme service which is or does not require to be licensed under Section 4 of the Cable and Broadcasting Act 1984.
3. No film shall be exhibited at the premises unless:
 - (a) it is a current news reel; or

- (b) it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18, or RESTRICTED (18) film
- (c) it has been passed by the Council as a U, PG, 12, 15, 18, or RESTRICTED (18) film.

Restricted (18) films

- 4. Films in the RESTRICTED (18) category may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

Unclassified Films

- 5. Not less than twenty-eight days notice in writing shall be given to the Council of any proposal to exhibit any other film which has not been classified as specified above. Such a film may only be exhibited if the Council's written consent has been obtained and in accordance with the terms of any such consent.

“Persons under 18” Notice

- 6. No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at the entrance to the premises a notice in clear letters in the following terms:

PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME

Category Notices

- 7. A representation or written statement of the terms of any certificates given by the British Board of Film Censors or the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates and the representation or statement shall be shown for long enough and in a form large enough for it to be read from any seat in the auditorium.

Timetable of Films

- 8. The licensee shall display in a conspicuous position, to the satisfaction of the Council, at each entrance to the premises, during the whole time the public are being admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

Advertisements

- 9. No advertisement displayed at the premises of a film to be exhibited at the premises shall depict as a scene or incident in the film any scene or incident which is not included in the film as certified by the British Board of Film

Censors or the British Board of Film Classification or approved for exhibition by the licensing authority, as the case may be.

10. Where the licensing authority has given notice in writing to the licensee of the premises objecting to an advertisement on the ground that, if displayed, it would offend against good taste or decency or be likely to encourage or incite crime or lead to disorder or be offensive to public feeling, that advertisement shall not be displayed at the premises without the prior consent in writing of the licensing authority.

Objection to exhibition of film

11. Where the licensing authority has given notice in writing to the licensee of the premises prohibiting the exhibition of a film on the ground that it contains material which, if exhibited, would offend against good taste or decency or would be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that film shall not be exhibited in the premises except with the prior consent in writing of the licensing authority.

Additional conditions for 'Club' cinemas showing films in the restricted classification

12. (i) No club showing films in the 'restricted 18' category may operate in a multi-screen complex whilst persons under 18 are being admitted to any performance in the complex unless the Council's written consent has first been obtained.

(ii) When the programme includes a film in the 'restricted 18, category the licensee shall display in a conspicuous position at the entrance to the premises a notice in clear letters in the following terms:

"CINEMA CLUB – MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME"

(In the case of a multi-screen complex where consent has been granted the notice shall specify the particular part of the premises in which films in the 'restricted 18' category are being exhibited).

(iii) The timetable of films required by rule 52 shall include the following addition to the categories shown;

"Category RESTRICTED 18" passed only for persons of 18 years and over who are either members of the cinema club or who are guests of a member".

(iv) All registers of members and their guests shall be available for immediate inspection by the Council's officers during any performance, or at any other reasonable time.

(v) Tickets shall in no circumstances be sold to persons other than members.

Comment [PK3]: I wonder whether this is still relevant / necessary. Is there a chance that the Council would licence a sex cinema club in a multiplex cinema?

- (vi) No persons under 18 years of age shall be employed in any capacity at licensed premises which are operating as cinema clubs.
- (vii) Subject to prior written consent by the Council, a subscription may entitle the club member to attend other clubs under the same management.
- (viii) Membership rules for these club cinemas shall include the following –
- (a) The club rules must be submitted to the Council 4 days before the club commences operations and notice of all rule changes shall be given to the Council within 14 days of the change.
 - (b) Only members and their guests shall attend exhibitions of moving pictures classified in a restricted classification.
 - (c) Membership shall be open to persons of both sexes of not less than 18 years of age. Applications for membership, including both name and address, shall be in writing, signed by the applicant, and if deemed necessary such applicants shall provide satisfactory references and proof of age.
 - (d) No person shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the licensed proprietors.
 - (e) New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
 - (f) An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the licensed proprietors may refuse to renew any membership without assigning reason for such refusal.
 - (g) Members shall be entitled on any day to bring not more than one guest to accompany the member, and the name of the guest shall be entered in the visitors' book and counter-signed by the member.
 - (h) On admission a member and his guest shall be bound by the rules of the club and by any by-laws and regulations made thereunder.
 - (i) Tickets shall be sold only to members on the production of a membership card and members shall, if required, sign an acknowledgement for the ticket or tickets issued.
 - (j) Membership cards shall be personal to the member and shall not be transferable to any other person.

- (k) Neither membership tickets nor guest tickets shall be transferable.
- (l) No member shall introduce as a guest any persons under the age of 18 or any persons whose application for membership had been refused. The proprietors will reserve the right to refuse admission to any person.
- (m) Proof of identity, or of age, or of any particulars of any guest shall be produced by any member or guest if demanded by the licensed proprietors.
- (n) Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Sale of Sex Article

13. Neither sex articles nor 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'.

Part 5 Conditions which apply to Sexual Entertainment Venues

Performances of Relevant Entertainment

1. The performance of relevant entertainment within the premises shall not be visible from any area outside of the premises at any time.

Age Restrictions

2. A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.
3. Members of staff at the premises shall seek "credible photographic proof of evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.

Club Rules

4. The premises must provide a copy of its Club Rules to the Council and to Essex Police for consideration and approval.
5. All performers and staff shall be aware of the Club Rules.

6. All dancers, staff and door supervisors shall read a copy of the rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the premises as part of their due diligence.

Management Operation Manual

7. A management operation manual detailing all aspects of procedure when the premises are operating relevant entertainment shall be produced and approved by the Council. This document shall reviewed annually and the manual as reviewed shall be submitted for approval of the Council together with the application for renewal of the licence.

Comment [PK4]: If this is to be required, then the form should make provision for it.

Performers

8. Performers shall be aged not less than 18 years and the "Challenge 25" scheme will be used to manage this.
9. All performers shall be aware of the management operation manual.
10. A log book shall be maintained on the premises detailing the names and start and finish times of individual performers involved in all forms of adult entertainment.
11. At all times during the performance, performers shall have direct access to a dressing room without passing through, or in close proximity to, the audience.
12. On leaving the premises performers, who wish to be, shall be escorted by staff member to their vehicle or other safe location.

Comment [PK5]: Would it be better to condition that proof of ID must be kept on record.

Performances

13. Whilst dancers are performing in any public area there shall be a minimum distance of one metre maintained between the dancer and the seated customers. Prominent, clear notices shall be displayed at each table stating this requirement.
14. There shall be no physical contact between customers and the dancers except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance. A touch and go policy will operate i.e. any person/customer touching dancers will be ejected from the premises and barred from those premises.
15. No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.
16. No audience participation shall be permitted.

17. Signs displaying the rules on the performance of relevant entertainment will be displayed throughout the premises and be clearly visible to patrons. This will include any private individual booth area.
18. In the event of the relevant entertainment being performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designated for private relevant entertainment. Each such area shall be capable of being continually monitored by a member of staff.
19. No performer or member of staff shall sit on, straddle, stroke, fondle or make any form of sexual contact with a customer at any time.

Door Supervisors

20. One SIA registered door supervisor per 75 customers shall be on duty on the premises whilst relevant entertainment takes place plus there shall be at least one door supervisor on each entrance in each separate part of the premises and on the door to the dressing room.
21. The door supervisors shall be on duty at the premises at all times when the premises provide relevant entertainment.
22. The premises shall be a member of the Pub/Townlink Radio scheme.

Comment [PK6]: This needs clarification. Does it mean at every entrance to the property or every interior entrance to different parts of the property? The former is acceptable. The latter appears excessive and is in any event unclear – when does one part become another? Please make sure it does not duplicate or act inconsistently with Condition 35.

Closed Circuit Television (CCTV)

23. A high quality CCTV system shall be installed to cover all entrances and exits to the premises and areas where relevant entertainment will take place, with the exception of the performers' changing area. This system must be installed and fully operational before the premises opens for the licensable activity applied for. All cameras shall continually record whilst the premises are open to the public and video recording shall be kept available for a minimum of 31 consecutive days with date and time stamping.
24. At the time of installation or upgrading of any CCTV system it shall comply with the current and relevant Police guidelines for Standard Minimum closed circuit television requirements. To obtain a clear head and shoulders image of every person entering the premises on the CCTV System, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.
25. A member of staff who is fully trained in the use of the system shall be on duty at all times when the premises are open until the premises are clear of customers, cleared of staff and closed.
26. Within 24 hours of a request made by Essex Police or the Licensing Authority, the premises will provide the CCTV footage requested.

Comment [PK7]: This feels like overkill. It is usually better to have roaming rather than fixed door staff, and it is not generally a problem that members of the public try to gain access to dressing rooms.

Crime Survey

27. Upon completion of a crime survey by Essex Police, the licence holder shall act accordingly with all recommendations of the survey in so far as they relate to licensable activities,

Layout of premises

28. The approved activities shall take place only in the areas designated by the Licensing Authority.
29. All dance booths are to be equipped with a panic alarm for safety.
30. Arrangements shall be put in place to restrict access to the dressing room at all times when the relevant entertainment is taking place, and until such time as all performers have vacated it. The performers' dressing rooms will be off-limits to all non-employees.
31. The layout within the areas used by customers shall not undergo substantial change without the prior written consent of the Licensing Authority.

Sale of goods

32. Neither sex articles nor 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'.

Door Policy

33. No entry to be permitted to any customer who is considered by the management or door staff to be incapable of controlled or acceptable behaviour, especially those who may be showing sign of having been intoxicated through alcohol or drugs.
34. All customers will be explained the rules for the venue before entry is permitted.
35. One member of door staff will be present at the entrance to the venue at all times during opening hours.
36. Door staff will carry two-way radios at all times.
37. Dress code will be smart at all times; no sports wear will be permitted.

Operation of the Venue

38. A copy of the house customer rules will be on display at the entrance to the venue and in the bar area.

39. Waitresses/Waiters and bar staff must remain fully clothed at all times.

Supervision of Performers

40. Proof of citizenship or working permits must be provided.
41. No working auditions will be permitted; a cooling off period of three days is enforced at all times.
42. All performers and staff must complete an emergency contact form before working within the venue.
43. Performers must sign a 'contract' before working stating that they have read, understood and will abide by the performer rules and rules of the house while working in the venue.
44. A member of staff will be in the private dance area at all times whilst private dances are taking place.
45. No dances will be permitted without supervision from a member of staff.
46. Performers must be provided with a full briefing on the Club rules.

Customer and Performer Conduct

There should be published rules on customer conduct and performer conduct and the rules should contain as a minimum the following requirements, and the licensee shall ensure that the rules are enforced.

47. Any customer who is offensive either by language or action towards the performer will be ejected from the venue. They will also be barred from entry on any future occasion.
48. Strictly no photographing or videoing of performances or performers before, during or after the performance will be allowed. All customers' mobile phones will be switched off whilst on the premises. Anyone found breaching this condition will be ejected from the venue and barred from entry on any future occasion.
49. Any customer found in possession of drugs, attempting to consume drugs or selling drugs will be detained by the security staff and the Police will be called. They will also be barred from entry on any future occasion.
50. Throwing of money at performers will not be permitted before, during or after the performance, nor will the giving of any other gift. Anyone breaching this condition will be ejected from the venue and barred from entry on any future occasion.

51. Customers will not be allowed to pass on personal details such as business cards or telephone numbers to performers before, during or after a performance.
52. Payment must be made to the performer only and strictly in advance of the performance taking place.

Performer Conduct

53. No performer will be allowed to carry or use any sex toy, sex aid or other paraphernalia.
54. No performer will be allowed to wear bondage or sadomasochist clothing or paraphernalia. No accessories such as sex toys or aids are to be carried or used by the performers.
55. No handing out of cards, telephone numbers or personal contact information to customers or any other persons by performers.
56. Performers must not encourage customers to touch them in any way before, during or after a performance.
57. Performers found in possession, using or attempting to sell drugs or even under the influence of drugs before, during or after a performance will be immediately dismissed and the Police notified.
58. Performers will instruct all customers to keep their hands by their sides at all times during a private dance.
59. Any approach by a customer to make personal contact with a performer must be immediately reported to the management or security.
60. Performers will not be permitted to enter any part of the venue other than the private dance area and dressing room areas while fully nude.

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