

CHILTERN DISTRICT COUNCIL

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Licensing & Regulation Committee

Thursday, 20th January, 2011 at 6.30 pm

Large & Small Committee Room, King George V House, King George V Road,
Amersham

A G E N D A

- 1 Evacuation Procedures
- 2 Minutes
To sign the Minutes of the meeting held on 2 December 2010.
- 3 Apologies for Absence
- 4 Declarations of Interest
- 5 Sex Establishments Policy Statement (*Pages 1 - 2*)
Appendix A (Pages 3 - 12)
Appendix B (Pages 13 - 48)
- 6 Exclusion of the Public
To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.
- 7 Private Reports (if any)

Note: All Reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Licensing & Regulation Committee

Councillors: G P Peters (Chairman)
D G Meacock (Vice-Chairman)
Miss P A Appleby
Mrs E L Bamford
Mrs J A Burton
Mrs V G Head
L A Hodgkinson
P M Jones
M J King
D J Lacey
S A Patel
J S Ryman
Mrs E P Stacey
C J Wertheim
P N Shepherd

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**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE 20th January 2011**

Background Papers, if any, are specified at the end of the Report

SEX ESTABLISHMENTS POLICY STATEMENT

Contact Officer: Ian Snudden 01494 732057

RECOMMENDATIONS

That Members consider and approve the amended Sex Establishments Policy and recommend it for approval by Full Council to come into effect by 1st March 2011.

Report

- 1 The draft Statement of Sex Establishment Policy Statement was presented to the Licensing and Regulation Committee on 2nd December 2010 and formal consultation has since taken place.
- 2 A table summarising the responses is detailed in **Appendix A** and the amended Statement of Licensing Policy is presented in **Appendix B**, with the amendments as tracked changes.

Relevant Locality

- 3 Home Office Guidance suggests that it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. The decision regarding what constitutes the 'relevant locality' is a matter for the appropriate authority, although such questions must be decided on the facts of the individual application.
- 4 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition.
- 5 No representations have been received in relation to specific areas within Chiltern district area which would or would not be appropriate locations for sex establishments. Therefore it is recommended that the each application be considered on its own merits and that the Committee should have regard to paragraph 6.2 of the Policy in

determining whether the grant, renewal or variation of a licence is appropriate.

Numerical Limits

- 6 The Local Government (Miscellaneous Provisions) Act 1982 allows the Council to set numerical limits for any category of sex establishment and the Licensing Authority can refuse applications for new or renewed licences where the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which is considered appropriate for that locality, i.e. where a numerical limit has been set.
- 7 The Home Office Guidelines accompanying the new legislation suggest that numerical limits may only be created in respect of specified areas; not complete towns or cities, nor the whole of the area regulated by the Authority.
- 8 No representations have been received in relation to setting numerical limits within Chiltern district area. Therefore, as above, it is recommended that each application be considered on its own merits and that the Committee should have regard to paragraph 6.2 of the Policy in determining whether the grant, renewal or variation of a licence is appropriate.

Conditions

- 9 A local authority may impose terms, conditions and restrictions on a licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.
- 10 Since standard conditions can only be prescribed by regulations, it is recommended that conditions are applied to a licence using the pool of conditions as appended to the Policy relevant to the particular licence application.
- 11 Representations have been received in relation to the pool of conditions and these have been amended where appropriate.

Background Papers:

Schedule of Responses following the formal consultation on the Council's Sex Establishment Licensing Policy

Section 1: Introduction/General Comments

Reference	Respondent	Comments	Appraisal	Response
001/01	Cllr Meacock	Para 1.5 - for clarity, define Schedule 3	Amend	Amend Appendix 1
001/02	Cllr Meacock	Para 1.9 - remove 'legitimate'	Amend	Amend
001/03	Cllr Meacock	Para 1.9 - include 'objectively'	Amend	Amend
004/01	Amersham Town Council	No comments to add to the policy		
005/01	Online survey - Q1. Do you feel the policy is clearly written and easy to understand?	There are a few errors in the appendices	Noted	
005/02	Online survey - Q1 Do you feel the policy is clearly written and easy to understand?	Yes		

Section 2: Waivers

Reference	Respondent	Comments	Appraisal	Response
005/03	Online survey - Q2. Do you consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence?	None		
005/04	Online survey - Q2. Do you consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence?	Only in respect of temporary relocation due to damaged premises. This should have a short time limit	Legislation allows for waivers to be applied for, if considered that to require a licence would be unreasonable or inappropriate. The decision to grant a waiver could be delegated to either full L&R Committee or a Licensing sub-committee who could also determine the length of time a waiver should have effect depending upon the individual circumstances.	Policy to be amended to incorporate the decision making process

Section 3: Application Process

Reference	Respondent	Comments	Appraisal	Response
001/04	Cllr Meacock	Para 3.5 - should include other means of providing contact information	Amend	Amend policy
001/05	Cllr Meacock	Para 3.7 - the size of the newspaper public notice should be stipulated	<p>No size of Public Notice is specified within the legislation although such notices shall be in a form prescribed by the Authority. The policy could be open to challenge if more onerous requirements than those contained in the legislation are imposed.</p> <p>Applicants could also find themselves with an invalid notice through no fault of their own if the newspaper should publish at the wrong size.</p>	No change to policy
001/06	Cllr Meacock	Para 3.9 - should there be a certain number of days before expiry of the licence in which to receive an application in order for the licence to continue to operate	Legislation allows for an application to be received anytime before the date of expiry in order for the licence to continue to operate.	No change to policy

005/05	Online Survey Q3. Does the policy clearly set out what is required when making an application? Are there any other matters that you believe should accompany an application?	yes		
005/06	Online Survey Q3. Does the policy clearly set out what is required when making an application? Are there any other matters that you believe should accompany an application?	yes a criminal records check for all applicants	The legislation sets out the information that is required to accompany an application plus 'such other details as the appropriate authority may reasonably require. Applications can be received by individuals, partners, unincorporated bodies and corporate bodies. Enhanced CRB checks are required for Private Hire Operators and the Gambling Commission require CRB check to obtain an Operators Licence. Therefore, individual applicants or partners or someone in authority e.g.	Amend policy - new condition 3,3 - wording consistent to guidance for personal licence holders under the Licensing Act 2003

			Managing Director or Company Secretary of an unincorporated or incorporated body could be required to undertake an enhanced CRB check	
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Section 4: Representations

Reference	Respondent	Comments	Appraisal	Response
001/07	Cllr Meacock	i) Para 4.2 - should this include crime and disorder ii) for clarity, separate grounds for objections	There are statutory grounds for refusal and any objections must only relate to these specific grounds	No change in policy amended
001/08	Cllr Meacock	Para 4.3 excludes L&R Committee Members from being interested parties	Amend	Amend policy
005/06	Online Survey Q4. Is the policy clear as to which matters are relevant to an objection?	Yes		

Section 5: Determination of Applications

Reference	Respondent	Comments	Appraisal	Response
002/01	Head of Building Control	Fire brigade input in terms of means of escape - would the policy need any separate reference to the FB input?	Licensing Policy under LA03 deals with fire safety and legislation compliance generally. For consistency, can include a policy statement	Amend Policy - new paragraphs 5.9 -5.11

Section 6: Relevant Locality

Reference	Respondent	Comments	Appraisal	Response
005/07	Online Survey Q5. Are there other issues you feel are important when considering the character of the relevant area?	No		
005/08	Online Survey Q6. What is your view in determining the appropriate number of premises to be licensed in a relevant area?	No opinion		

005/09	Online Survey Q6. Are there any particular areas within Chiltern DC which you feel are inappropriate for a sex establishment?	No opinion		
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Section 7: Hearings

No responses

Section 8: Right to Appeal a Decision

No responses

Section 9: Fees

No responses

Section 10: Duration of Licence

No responses

Section 11. European Convention on Human Rights

No responses

Appendix 1. Definitions

No responses

Appendix 2. Notice of Application

No responses

Appendix 3. Licence Conditions - Sex Shops and Sex Cinemas

Reference	Respondent	Comments	Appraisal	Response
001/09	Cllr Meacock	Condition 33 - doors should be offset to prevent doors opening simultaneously and providing a clear view through	Automatic closure devices and screens should prevent casual direct view into premises. Cost/structure of building may make offsetting doorways difficult proportionate to what may be achieved	No change in Conditions
001/10	Cllr Meacock	Condition 38 - condition for booths and cubicles should also apply to toilets	Amend	Amend Conditions
005/11	Online Survey	Conditions 7 and 11 are inappropriately gender specific.	Agree	Amend conditions
005/12	Online Survey	Condition 16 does not reflect the restriction of the conditions shops and cinemas	Agree	Amend conditions

Appendix 4. Licence Conditions - Mail Order Premises

Reference	Respondent	Comments	Appraisal	Response
005/13	Online survey	Condition 7 is inappropriately gender specific	Agree	Amend conditions
005/14	Online survey	Conditions 10, 15, and 16 do not reflect the restriction of the conditions to mail-order premises	Agree	Amend conditions

Appendix 5. Licence Conditions - Sexual Entertainment Venue Premises

Reference	Respondent	Comments	Appraisal	Response
001/11	Cllr Meacock	Condition 25 - Are there standards for adequate changing rooms for performers	Standards for performer's changing rooms are set out in the Technical Standards (G2) of the Association of British Theatre Technicians	Amend Policy
001/12	Cllr Meacock	Condition 39 - doors should be offset to prevent doors opening simultaneously and providing a clear view through	Automatic closure devices and screens should prevent casual direct view into premises. Cost/structure of building may make offsetting doorways difficult proportionate to what may be achieved	No change in policy
001/13	Cllr Meacock	Condition 43 - condition for booths and cubicles should also apply to toilets	Amend	Amend policy

001/14	Cllr Meacock	Condition 54(2) - replace 'appropriately clothed' with 'fully clothed'	Amend	Amend policy
003/01	Public Health Directorate NHS Buckinghamshire	Can I suggest that licensed sex establishments display information around safer sex and details on the local sexual health website www.sexualhealthbucks.nhs.uk ?	Conditions are in place which prevent the display or sale of sex articles, exchange of contact details, solicitation. By displaying information about safer sex, confusion and ambiguity may result. Also by providing such information to performers, a presumption is made that sex will follow a performance.	No change in policy
005/15	Online Survey	Condition 7 is inappropriately gender specific	Agree	Amend Condition

CHILTERN District Council



CHILTERN
District Council

Health and Housing Division

SEX ESTABLISHMENTS POLICY STATEMENT

Schedule 3 Local Government (Miscellaneous Provisions Act 1982),
as amended by Section 27 Policing and Crime Act 2009

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Appendix 1 Definitions

Appendix 2 Notice of Application

Appendix 3 Standard Conditions – Sex shops and cinemas

Appendix 4 Standard Conditions – Mail order premises

Appendix 5 Standard Conditions – Sexual Entertainment Venues

1. Introduction

- 1.1 This policy has been drafted as a result of new provisions that allow the Council to regulate lap dancing and similar venues and has provided an opportunity for the unification of the regulation of existing sex establishments in the District.
- 1.2 The policy is intended to set out clear and concise guidance, procedure and principals for the benefit of the Licensing Authority, the community, applicants and other relevant organisations.
- 1.3 The policy also contains standard conditions which will be applied to the different types of sex establishment which forms part of any licence granted.
- 1.4 The scheme for the control of sex establishments by way of a licensing regime is contained in the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009 and the Home Office Sexual Entertainment Venues Guidance for England and Wales (March 2010).
- 1.5 Chiltern District Council adopted the original provisions of Schedule 3 of the 1982 Act for sex cinemas and sex shops on 1st April 1983 and the new provisions for Sexual Entertainment Venues under the amendments of the Policing and Crime Act on 9th September 2010. In this policy, we refer to these as “sex establishments” unless otherwise stated.
- 1.6 Adoption of Schedule 3 allows the Council to set terms and conditions and fees for the grant, variation, renewal and transfer of such licenses and the number of premises to be licensed in an area.
- 1.7 The Standard Conditions appended to this policy do not form part of the policy document, although they may be referred to within the policy. These Standard Conditions could be subject to change during the duration of this policy, but such amendment may not result in review of this policy.
- 1.8 This Sex Establishment Policy Statement was approved by the Licensing Committee and Regulation Committee on and will be reviewed at least once every three years.
- 1.9 The Council does not take a moral stance through the adoption of this policy. The Council recognises that Parliament has made it lawful to operate Sexual Entertainment Venues, and that such businesses are a part of the retail and leisure industries. It is this Council’s role as the Licensing Authority to administer the licensing regime objectively in accordance with the law.

- 1.10 New applications for grant and applications to vary will be determined by this authority's Licensing and Regulation Committee. Unopposed applications to renew and/or transfer will be determined by the Head of Health and Housing under delegated authority. Contested applications for renew and/or transfer will be determined by this authority's Licensing and Regulation Committee.
- 1.11 Due to the requirement that each application must be considered on its own merits, although the Licensing and Regulation Committee must have regard to this policy as part of their decision making process, they are not rigidly bound by it. Should the Licensing and Regulation Committee choose to depart from this policy, clear and concise reasons for doing so will be provided.
- 1.12 This policy reflects the legal requirements of the 1982 Act and duties under Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the District; The Regulators Compliance Code (set out under the legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and The Provisions of Services Regulations 2009.
- 1.13 Each application will be considered on its own merits, on a case by case basis.

2. Waivers

- 2.1 Applications can be made to waive the requirement for a sex establishment licence.
- 2.2 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sex Shops and Sex Cinemas, except in extreme circumstances (for example, to allow a temporary re-location of a business following damage to licensed premises). The decision to grant a waiver and its duration will be considered by the Licensing and Regulation Committee (or Licensing Sub-Committee).
- 2.3 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sexual Entertainment Venues, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

3. Application Process

- 3.1 Applications must be submitted to the Licensing Authority together with the application fee; applications may be submitted electronically. The application form can be used for grant, variation, transfer and renewal applications. The application must be copied by the applicant to the Police within 7 days after the date the application was made.
- 3.2 Applicants must provide their name, address and, where the applicant is an individual, their age, plus the premises address and the proposed licensed name of the premises. Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a Sexual Entertainment Venue.
- 3.3 In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, an applicant must produce a criminal conviction certificate or a criminal record certificate or the results of a subject access search of the police national computer by the National Identification Service to the licensing authority. This applies whether or not the individual has been living for a length of time in a foreign jurisdiction.
- 3.3 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design, including signage, for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises shall be such that the interior of the premises is invisible to passers-by. The plan should also include all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to other premises within 100m.
- 3.4 In addition, applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises for consideration by the Licensing Authority. In the case of Sexual Entertainment Venues such plan must outline the areas that relevant entertainment will take place, any fixed structures including stages or other raised areas, dressing rooms of performers and toilets.
- 3.5 Applicants for Sexual Entertainment Venues must also submit a copy of their "House Rules". Such House Rules must contain the required conduct of performers which shall include matters containing conditions of licence, i.e. no touching, no meeting customers, no sex acts, no exchange of contact information.

Such House Rules will form part of the licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.

Applicants must make provision for all performers to sign documentation to confirm their knowledge of and acceptance to adhere to the House Rules. Such documentation must be retained for the duration of the performers' employment and for a further 6 months from the date they last worked at the premises, whether they are employed directly or freelance.

- 3.6 The Council officers may, as part of the application process, visit the locality of the premises to establish whether there are any characteristics of the locality which may require consideration by the Licensing and Regulation Committee.
- 3.7 Applicants (other than applicants for variation of licence) must also give public notice of the application by publishing an advertisement in a local newspaper. This must be published within 7 days of making the application. If the application relates to a premises then there is an additional requirement for notice of the application to be displayed for 21 days on or near the premises where it can be conveniently read by the public. The notice, the form of which is prescribed by the Licensing Authority, must contain certain information (Appendix 2).
- 3.8 Please note that with regard to online applications tacit authorisation does not apply to new grant applications for sex establishment licences. This means you must wait for the Licensing Authority to determine your application before you can operate a sex establishment.
- 3.9 If an application is for the renewal a sex establishment licence, the premises can continue to operate past the licence expiry date; provided that the renewal application has been submitted to the Licensing Authority before the licence expires. The Licensing Authority will notify you of the decision.
- 3.10 Applicants are advised that any person who, in connection with an application for the grant renewal or transfer of a licence, makes a statement which s/he knows to be false in any material respect, or which s/he does not believe to be true, is guilty of an offence and liable to summary conviction to a fine not exceeding £20,000.
- 3.11 Any licence approved does not constitute any approval under any other Acts (for example, the Town and Country Planning Act 1990) or Bye-Laws. The applicant must ensure that all other necessary consents and approvals are obtained prior to operation.
- 3.12 The Council would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

4. Representations

- 4.1 Although applicants are only required to provide notice of the application to the police, the Council will publish a list of current sex establishment premises applications on the Council's website, to allow the public to view basic details and provide a contact number for the office processing the application.
- 4.2 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The grounds relevant to the majority of objectors are as follows:
- that the grant or renewal of the licence would be inappropriate, having regard to a) the character of the relevant locality or b) to the use to which any premises in the vicinity of the premises, c) the layout, character or condition of the premises, vehicle or vessel or stall in respect of which the application is made.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the Act must be rejected. Where objections are rejected, the objector will be given written reasons.

- 4.3 Objectors can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Elected Councillors may represent interested parties, but will be precluded from sitting on the Licensing and Regulation Committee for the duration of the consideration of an application where a conflict of interest exists.
- 4.4 The Licensing Authority will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by Council officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given written reasons. A report will be made to the Licensing and Regulation Committee/Sub-Committee determining the application (if appropriate), indicating the general grounds of the representation and the reasons for rejection.
- 4.5 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 4.6 Valid objections will be considered by the full Licensing and Regulation Committee or delegated to a Licensing Sub-Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing and Regulation Committee's Code of Conduct for hearings.

- 4.7 Objections must be made in writing (email is acceptable) and should include the following:
- the name and address of the person or organisation making the Objection
 - the premises to which the objection relates
 - the proximity of the premises to the person making the objection; a sketch map or plan may be helpful to show this
 - the reasons for making the objections, which are clearly set out in relation to the grounds for refusal (as stated at 6.2 above).
- 4.8 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.

5. Determination of Applications

- 5.1 In determining an application the Licensing and Regulation Committee will have regard to this Policy Statement, the application itself and any objections that may have been made. In all cases, each application will be determined on its own merits.
- 5.2 When considering an application for the grant, renewal, variation or transfer of a sex establishment licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.
- 5.3 Specific Mandatory grounds for refusal of a licence are set out in the Act.

A licence cannot be granted:

- (a) to any person under the age of 18 years;
- (b) to any person who is for the time being disqualified due to the persons having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application made;
or

- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that 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.

Please note there is no right of appeal against refusal on these grounds.

5.4 In accordance with Section 17 of the Crime and Disorder Act 1998, the Council is under a duty to exercise its functions with due regard to the likely effects on crime and disorder. It aims to do all it can to prevent crime and disorder in its area. The possible impact of crime and disorder are clearly relevant factors in the consideration of all applications. In giving “due regard” to these possible implications, Members will consider all information available and representations made from all Objectors, the Applicant and in particular the Thames Valley Police.

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

However if any objections have been received, or if there are concerns regarding the characteristics of the locality, the application will be referred to the Council’s Licensing and Regulation Committee for a hearing of the application.

5.6 The Licensing Authority may refuse an application for the grant, variation or renewal of a licence on one or more of the following grounds:

a) the applicant is unsuitable to hold a licence because they have been convicted of an offence or for any other reason. The determination of the suitability of the applicant is a matter for the local authority to decide at the time the application is made.

(b) 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; the determination of the business benefit is a matter for the local authority to decide at the time the application is made. The local authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. The Council shall normally take into account:

- previous knowledge and experience of the applicant and their managerial competence;
- any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other district;
- any report about the applicant and management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant;
- that the operator is proposing a management structure which will deliver compliance with operating conditions, and policies concerning the training of staff and welfare of performers as well as means to protect the public;
- any other relevant reason.

(c) the number of Sexual Entertainment Venues, in the relevant locality at the time which the authority consider is appropriate for the locality;

(d) that the grant or renewal of the licence would be inappropriate, having regard-

- (i) to the character of the relevant locality; or
- (ii) to the use to which any premises in the vicinity are put; or
- (iii) to the lay out, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

5.7 Any decision to refuse a licence **MUST** be relevant to one or more of the above grounds.

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

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

5.9 It is appreciated that there may be an overlap between the licensing regime and other statutory regulatory systems. To avoid such duplication, conditions will not be attached to licences if they are already adequately covered by other legislation. Most sexual entertainment venues will also require a 2003 licence and therefore the licensing authority will avoid duplicating licence conditions and only impose conditions relevant to the activities authorised by that licence.

5.10 Where a relevant representation is received in respect of capacity, the licensing authority may impose conditions in relation to the maximum number of persons to attend premises where:

- It considers it to be necessary for the purpose of reducing crime and disorder;
- It considers it to be necessary for the purpose of safety of occupants.

The issue of capacity will be decided on a case by case basis and will only be applied where there is a clear and justifiable need to do so based upon the nature and style of the premises and the licensing objectives.

- 5.11 The purpose of imposing a maximum number of persons to be in the premises at any one time is to ensure the safety of those persons at the premises. Where relevant representations have been made, the licensing authority will set occupancy limits in consultation with the responsible authority.
- 5.12 It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.
- 5.13 Details of the pool of conditions relating to each type of licence are contained in Appendices 3-5. Should these conditions be amended at any time in the future, they would apply to all licences already issued as if the conditions had been in place at the time they were granted.

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

6. Relevant Locality

- 6.1 In deciding the appropriate number of premises to be licensed, the Committee must consider the character of the relevant locality and what is the appropriate number of sex establishments in that relevant locality. The number can be 'nil'.
- 6.2 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Committee shall consider, among other considerations, whether the grant of the application would be inappropriate, having regard to:
- (a) the use to which any premises in the vicinity are put;
 - b) the number of existing sex establishments both in total and also in respect of each type (*i.e.* sex cinemas, sex shops and sexual entertainment venues);
 - (c) the number of existing premises engaged in and or offering entertainment of an adult or sexual nature or entertainment or

associated with an adult or sexual nature (for example tattooing, piercing etc;)

- (d) the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons;
- (e) the proximity of educational establishments to the premises;
- (f) the proximity of places of worship to the premises;
- (g) access routes to and from schools, play areas, nurseries, children's centres or similar premises;
- (h) the proximity to shopping centres;
- (i) the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres and clubs. This list is not exhaustive;
- (j) the potential impact of the licensed activity on crime and disorder and public nuisance;
- (k) the potential cumulative impact of licensed premises in the area taking into account the days and hours of operation of the activity and the character of the locality where the premises are situated;
- (l) the nature and concerns of any objections received from residents/establishments objecting to the licence application;
- (m) any evidence of complaints about noise and/or disturbance caused by the premises;
- (n) current planning permission/planning requirements on the premises;
- (o) any current planning policy considerations;
- (p) whether there is planned regeneration of the area;
- (q) any current licensing permissions related to the premises in relation to activities, uses and hours;

7. Hearings

- 7.1 Where applications are referred to a Licensing and Regulation Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.

- 7.2 The hearing provides all parties to the application including those making objections, the opportunity to air their views openly and will be considered by the Licensing and Regulation Committee.
- 7.3 When hearing an application for the grant of a sex establishment licence, the Committee shall have regard to the Policy Statement provisions set out above but subject to the overriding principle that each application will be determined on its merits.

8. Right to Appeal a Decision

- 8.1 If an application is refused following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal.
- 8.2 Appeals must be made to the local magistrates' court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision. The notice will advise the address of the appropriate Magistrate's court to which such an appeal should be submitted. It should be noted that a fee may be payable to the magistrates to lodge such an appeal.
- 8.3 Applicants can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed.
- 8.4 Please note that you cannot appeal against the Licensing Authority's decision if the application was refused on the grounds that:
- that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
 - the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.

The Magistrates' court will determine the appeal application. If you do not agree with the decision made by the magistrates' court, you can appeal to the local crown court. The decision made by the crown court will be final.

- 8.5 The Licensing Authority must comply with a decision made by the Magistrates or Crown court.

9. Fees

- 9.1 The fees set are deemed to be reasonable to cover the cost of administration, enforcement, the cost of any hearings and are not refundable.

10. Duration of licence

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

11. European Convention on Human Rights

- 11.1 As far as existing operators are concerned the Government has decided having listened to views from previous consultations that 'Grandfather Rights' will not apply.
- 11.2 The Transitional Order allows local authorities to refuse applications whether they are from existing operators or new applicants, one or more grounds as under paragraph 12 of Schedule 3.
- 11.3 When making such decisions, local authorities must take into account any rights the existing operators have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression).
- 11.4 The Council will have regard to the fact that it will be prudent to assume that freedom of expression includes the right to use particular premises as sex establishments and that a person who is denied the right to use his premises as a Sexual Entertainment Venue where he already has a licence to do so under the Licensing Act 2003 (or in future under the 1982 Act) has been deprived of possessions.

APPENDIX 1

Definitions

The Act

This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) and accordingly, 'Schedule 3' shall have the same meaning.

The Policy Statement

This refers to the Sex Establishments Policy Statement.

The Council

This means Chiltern District Council.

Sex Cinema

A sex cinema is any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures however produced, which:

- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to or intending to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity
- (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

Sex Shop

A sex shop is 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
- (b) other things intended for use in connection with or for stimulating or encouraging:-
 - (i) sexual activity
 - (ii) acts of force or restraint which are associated with sexual activity.

Sex Articles

A sex article is anything for use in connection with or for stimulating or encouraging

- (a) sexual activity
- (b) acts of force or restraint which are associated with sexual activity.
- (c) anything:-
 - i) 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
 - ii) to any recording of vision or sound, which

- a) 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
- b) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sexual Entertainment Venue

A sexual entertainment venue is any premises where any live performance or any live display of nudity is of such a nature that, regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience. It includes, but is not limited to, lap dancing, pole dancing, table dancing, strip tease, live sex shows and similar venues.

The Organiser

This is any person who is responsible for the organisation or management operation of the relevant entertainment or the premises.

Display of nudity

This means:

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

The Licensed Premises

This is the premises, vessel, vehicle or stall which is subject to a sex establishment licence. The premises will be in possession of all appropriate consents and permissions required to operate.

Permitted Hours

These are the hours of activity and operation that have been authorised under the sex establishment licence.

NOTICE OF APPLICATION FOR THE GRANT / RENEWAL / TRANSFER OF A SEX ESTABLISHMENT LICENCE



CHILTERN
District Council

I/we.....

hereby give notice that I/we have applied to Chiltern District Council under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 for a licence to use the following premises referred to above as a sex shop / sex cinema/sexual entertainment venue.

Proposed Licensed Name.....

Address of premises.....

Proposed hours of opening/operation

Any person wishing to make representations about the application should make them in writing to the PLEASE INSERT ADDRESS OF THE OFFICE OF THE COUNCIL THAT IS DEALING WITH THE APPLICATION within 28 days of the date of the application which was INSERT DATE.

Signed..... Date.....

Notes:

1. Enter full details of the application on this form.
2. Affix a copy of the completed form on the exterior of the premises, to which the application relates, in a prominent position for public viewing on the day of making application. You must ensure that the completed form remains in position for 21 days.
3. The content of the form, as completed, must be published in a local newspaper within 7 days of making the application.

APPENDIX 3**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982****SEX ESTABLISHMENT LICENCE CONDITIONS, RESTRICTIONS AND TERMS APPLICABLE TO SEX SHOPS AND SEX CINEMAS**Introduction

1. In these Conditions "The Council" shall mean the Chiltern District Council and all enquiries concerning this licence shall be directed to the Head of Health and Housing,
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to "Sex Shop and Sex Cinema" premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment ("the manager") shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he/she is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be

- immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
 10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
 11. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his/her name and that he/she is an employee.
 12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
 13. The Licensee shall take all reasonable precautions for the safety of the public and employees.
 14. No person under the age of 18 shall be admitted to the Premises.
 15. The Licensee shall adopt a procedure to check the age of customers entering the shop who appear to be younger than 25 in order to ensure that they are not under the age of 18.
 16. All persons working in the premises, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of employees including adequate identity checks.
 17. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
 18. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Opening of the Premises

19. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:

Monday – Saturday 9:30 am – 6:00 pm

20. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Sundays, Christmas Day or Good Friday.

Operation of the Premises

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

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

23. The primary use of a sex shop must be for the purpose of the sale of goods by retail.

External Appearance

24. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.

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

26. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

27. No items should be stored on the premises so that they can be viewed from any external window or door.

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

- (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
 - (iii) A notice stating the opening hours of the establishment.
 - (iv) The wording "PRIVATE SHOP" or "ADULT SHOP" but no other indication as to the nature of the business carried on at the licensed premises.
29. The lettering used in respect of such permitted items:-
- In the case of the permitted items at paragraph 24 'i', 'ii' and 'iv' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.
30. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 22 and 25 or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

31. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
32. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
33. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
34. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.

35. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
36. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.
37. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
38. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time. Appropriate fastenings are permitted on toilet doors. No more than one person (including any employee) be present within a WC cubicle.

Goods Available in Sex Establishments

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

Information for Customers

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

Licensed Name

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

APPENDIX 4**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982****SEX ESTABLISHMENT LICENCE CONDITIONS, RESTRICTIONS AND TERMS APPLICABLE TO MAIL-ORDER PREMISES****INTRODUCTION**

1. In these Conditions “The Council” shall mean the Chiltern District Council and all enquiries concerning this licence shall be directed to the Head of Health and Housing.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
2. These conditions are only applicable to a “Mail-Order Sex Shop” premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he/she is responsible for the conduct of the Premises.

8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises. No person under the age of 18 years will be admitted to the premises at any time, for whatever reason or purpose.
10. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of employees including adequate identity checks.
11. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
13. The Licensee shall take all reasonable precautions for the safety of employees.
14. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Operation of the Premises

15. No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue, sex cinema or sex entertainment venue to a sex shop shall be made without the approval of the Council. This will require consideration of an appropriate application.
16. The sex establishment shall be used exclusively for 'mail-order' purposes only, selling sex articles and other articles that do not fall within the definition of sex articles in Schedule 3, paragraph 4(3) of the Local Government (Miscellaneous Provisions) Act 1982.
17. All advertisements, catalogues, sales documents used in connection with the business intended or likely to be seen by customers will clearly and

prominently state "MAIL ORDER ONLY". All deliveries/despaches of parcels shall be in plain wrapping not identifying what is inside.

External Appearance

18. No external nameplate, advertisement board or any other written or pictorial or graphic display connected with the business shall be observable from outside the building, or from other units within the building or from the common parts of the building.
19. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
20. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.
21. No items should be stored on the premises so that they can be viewed from any external window or door.

State, Condition and Layout of the Premises

22. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
23. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
24. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
25. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

Goods Available in Sex Establishments

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

Licensed Name

27. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as “The Licensed Name” by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form. Paragraph 16 of these conditions applies.
- (b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

**APPENDIX 5
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

**SEX ESTABLISHMENT LICENCE CONDITIONS, RESTRICTIONS AND
TERMS APPLICABLE TO SEXUAL ENTERTAINMENT VENUE PREMISES**

INTRODUCTION

1. In these Conditions "The Council" shall mean the Chiltern District Council and all enquiries concerning this licence shall be directed to the Head of Health and Housing.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a "Sexual Entertainment Venue" premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment ("the manager") with the authority to direct activities within the Premises, shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he/she is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council

must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.

9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
11. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
12. The Licensee shall take all reasonable precautions for the safety of the public and employees.
13. The Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") to ensure that conditions of licence are complied with, in particular the no touching conditions, and to ensure the safety of performers.
14. No person under the age of 18 shall be admitted to the Premises.
15. The Licensee shall adopt a procedure to check the age of customers entering the premises who appear to be younger than 25 in order to ensure that they are not under the age of 18.
18. All persons working in the premises, including performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
17. The Licensee must submit a set of "House Rules" to the Licensing Authority as part of the application process; these rules will form part of the licence, and must be complied with. Furthermore they must ensure that all performers are fully conversant with and sign an agreement to adhere to such House Rules.
18. In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, then the Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must

be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.

19. CCTV recordings will be made available for viewing by authorised officers of the licensing authority or the police. Copies of such recordings must be provided upon request.
20. CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. The CCTV system must be monitored by a dedicated member of staff or security personnel at all times that the premises are in operation.
21. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.
22. Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.
23. The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst relevant entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
24. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.
25. The Licensee shall provide adequate non-public changing rooms for Performers meeting the 'Technical Standards for Places of Entertainment', Association of British Theatre Technicians

Opening of the Premises

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

Operation of the Premises

27. No change from a sex entertainment venue to either a sex cinema or a sex shop (including a mail-order shop), or a sex shop to either a sex cinema or sex entertainment venue, or from a sex cinema to either a sex shop or sex entertainment venue, shall be made without the approval of the Council. This will require consideration of an appropriate application.
28. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue or a sex cinema.

External Appearance

29. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
30. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
31. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the Premises, with the exclusion of Door Supervisors.
32. The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that relevant entertainment takes place on the Premises.
33. External advertising of relevant entertainment shall not include any of the following:
 - a) any depiction of full nudity
 - b) any depiction of partial nudity (including the display of breasts, buttocks or genitalia)
 - c) any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm.
34. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:

- (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
 - (iii) A notice stating the opening hours of the establishment.
35. The lettering used in respect of such permitted items:-
- In the case of the permitted items at paragraph 24 'i', 'ii' and 'iv' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.
36. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 27 and 33 or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

37. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
38. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
39. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
40. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
41. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

42. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.
43. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time. Appropriate fastenings are permitted on toilet doors. No more than one person (including any employee) be present within a WC cubicle.

Provision of Relevant Entertainment

44. Performers shall only perform in specified designated areas, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.
45. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
46. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where relevant entertainment may be provided.
47. At the conclusion of performances all articles of clothing removed during that performance must be put back on. This does not prevent performers going to their non-public changing area to change their attire.
48. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
49. Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.
50. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
51. Performers are never to be in the company of a customer except in an area open to the public within the Premises (excluding the toilets).
52. The Licensee must ensure that during the performance of a table or lap dance:

- (1) customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
 - (2) customers must remain seated during the entire performance of the dance;
 - (3) for the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - (4) Performers must not sit or straddle the customer;
 - (5) Performers must not place their feet on the seats.
53. The Licensee must ensure that during performances of relevant entertainment:
- (1) Performers may not perform any act that clearly simulates any sexual act;
 - (2) Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;
 - (3) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (4) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (6) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (7) Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.
54. The Licensee must ensure that during performances of relevant entertainment:
- (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
 - (2) Customers must remain fully clothed at all times.
55. At all times there must be no physical contact between customers and employees, or other persons working within the premises, in any part of the premises save for the following:-

- The payment of an entry fee by customers to authorised members of staff.
 - The payment of a fee for relevant entertainment.
 - The purchasing of drinks by customers from authorised members of staff.
 - The placing of bank notes by the customer in a garter worn by females or an armband worn by males.
 - SIA door staff in the execution of their duties.
56. At all other times during the performance the performer will keep a minimum distance of at least 3 feet away from the customer.
57. Relevant entertainment will only take place in specified designated areas within the premises, as identified on the plan attached to the licence.
58. Notices outlining condition 57 will be clearly displayed at each entrance to the premises and in the specified designated areas. Notices must state that no touching relates to customers touching performers and other persons working within the premises and vice versa.
59. Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

Licensed Name

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

